DOCUMENT RESUME

ED 136 335 EA 009 246

TITLE	The Negotiator. Revised Edition.
INSTITUTION	Washington State School Directors Association, Olympia.
PUB DATE	Nov 75
NOTE	98p.
AVAILABLE FROM	Washington State School Directors' Association, 200 East Union, Olympia, Washington 98501 ($5.00)
EDRS PRICE	MF-$0.83 HC-$4.67 Plus Postage.
DESCRIPTORS	*Administrator Guides; *Collective Bargaining; Contracts; Elementary Secondary Education; Industrial Relations; Labor Legislation; Negotiation Impasses; *School Personnel; *State Legislation; Teacher Strikes
IDENTIFIERS	*Washington

ABSTRACT

This booklet is intended to aid school officials in collective bargaining and dealing with employee disputes, in accordance with the provisions of the Washington State Educational Employment Relations Act. Individual chapters focus in turn on preparing for negotiations, carrying on negotiations, concluding negotiations, resolving disputes, and dealing with school strikes. The appendix contains the text of Washington's Educational Employment Relations Act and Public Employment Labor Relations Act, a section analyzing typical negotiations proposals, a model emergency strike plan, and a glossary of important employee relations terms. Because much of the booklet is addressed to the specific provisions of Washington state laws, it will be of limited value to school officials in other states. (JG)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

ED136335

THE NEGOTIATOR

EA 009 246

Washington State School Directors' Association
200 E. Union–Olympia, Wa. 98501

One copy is available without charge to each school board member and superintendent in the State of Washington.

All other copies, $5.00 each.

Revised November, 1975.

Preface

With the adoption of the Educational Employment Relations Act (ESSB 2500) Washington State law now mandates a system of collective bargaining for all education employees. The non-certificated or classified employees in a school district had been covered by a collective bargaining act since 1967, however, certificated employees (teachers) were still negotiating under the 1965 professional negotiations act.

The issue is no longer whether or not to permit public employee collective bargaining, but how to implement such bargaining and how to prevent and/or deal with public employee disputes which endanger the general well-being of the community. Thus, this booklet has been written to help school directors meet this challenge.

The material presented here should be used only as a guide and not as a final source of counsel. When legal questions arise, you are urged to consult an attorney. When a procedural problem arises, you are invited to call the Washington State School Directors' Association for assistance or for additional material.

Major sources used in compiling this information include: "The Selection, Operation and Control of the Board's Negotiation Team" by Richard G. Neal; "Contract Negotiations — Some Concepts and Techniques" by Dr. Charles Graves; *Counterproposals for School Boards in Teacher Negotiations* by Roy T. O'Neil; and negotiations articles by Myron Lieberman.

As you read this material and adapt it to use in your school district, remember to keep the importance of a statewide conscience on collective bargaining uppermost in your mind. What you do in your district may ultimately affect all school districts.

Contents

Page

Chapter 1 — Preparing for Negotiations **1.1**
- A. Choosing A Negotiating Team 1.1
- B. Planning, Probing and Persuasion 1.6

Chapter 2 — The Process of Negotiations **2.1**
- A. The First Meeting 2.1
- B. The Board's Proposals: Strategies of the Counterproposal 2.2
- C. Negotiating with Noncertificated Employees 2.15

Chapter 3 — Concluding Negotiations **3.1**
- A. The Agreement 3.1
- B. Ratifying the Agreement 3.2
- C. Administering the Agreement 3.3

Chapter 4 — Dispute Resolution **4.1**
- A. Impasse Procedures 4.1
- B. Grievance Procedure 4.2

Chapter 5 — School Strikes **5.1**

Appendix A — Educational Employment Relations Act A.1

Appendix B — Public Employees Collective Bargaining Act B.1

Appendix C — Contract Analysis C.1

Appendix D — Work Stoppage Procedures D.1

Appendix E — Emergency Strike Plan E.1

Appendix F — Glossary F.1

Appendix G — Bibliography G.1

CHAPTER 1

Preparing for Negotiations

A. Choosing A Negotiating Team

When a school board enters into collective bargaining with its teachers, one of the most important decisions it will make concerns the selection of its negotiation team. The selection of team members is of paramount importance for two main reasons: (1) the entire school system is influenced by the nature of the agreement reached by the two parties; and (2) the teachers will choose their most effective and articulate members to represent them at the bargaining table.

For these reasons, the board should organize a team that is best prepared to represent the board's point of view to the organized employees.

Teacher Advantages

With the advent of collective bargaining in public education and its rapid growth, the teachers enjoy certain advantages over the board and its administrators:

1. Practically every public school system in America had an organized teacher group long before collective bargaining came upon the scene. In private industry it took a century for employees to organize themselves and achieve their present level of sophistication. This will not be true among the teachers. They already have an organized base to build upon. School boards have to prepare quickly for what lies ahead.

2. Teachers are being advised and guided by powerful state and national organizations. Great sums of money are being expended by these organizations to make collective bargaining successful for the teachers. Board members and administrators do not have access to these rich coffers. School board associations and administrator associations must organize themselves more effectively.

3. Teachers are highly motivated in their collective bargaining. Every demand that is brought by the teachers to the bargaining table is of direct and personal advantage and profit to the teachers. They will join hands to walk the picket line. They will close ranks to protect their members. Such unity can bring great pressure to bear upon the board.

Boards Should Not Negotiate for Themselves

The primary reason that the school board should not do its own bargaining is that to do so removes the administration from a crucial involvement with the staff. In order to do its job effectively, the administrative staff should be directly confronted by the teachers across the bargaining table. Such a process brings the administrative staff in direct contact with the suggestions and problems of the teachers. After all, it is the administrative staff which must enforce and live with the final contract.

There is another slant, also. Teachers negotiating directly with the board might be construed to be a form of "bypassing" administration, generally an unsound policy.

Another reason that the board should not do its own negotiating is that the board is the final decision-making body of the community, but the teachers' negotiating team is not the final decision-making body of the teachers. This puts the board at a disadvantage. Although the board is expected to abide by its commitments made at negotiating sessions, the teachers' team can always withhold commitments pending approval of some other body.

Board Members Should Not Serve on the Team

In very small school systems, it may be necessary to use a board member on the bargaining team; however, as a general rule, this should not be done.

School board members are busy people. If negotiations are entered into seriously, board members will not have sufficient time to do an effective job. On the average, about twenty sessions are required to reach an agreement.

Attending negotiating sessions is generally not a problem for the teachers. They will be available any time. As a matter of fact, one tactic employed by unions is to wear the opposition down through meetings. So whoever negotiates for the board must be available at all times.

Also, more and more teacher association negotiators are becoming sophisticated spokesmen. Between local executive secretaries, Uni-Serv negotiators, and state and national consultants, a wealth of experience is being developed to help the teachers. As part-time, unpaid volunteers of limited term, board members cannot be expected to be effective negotiators. Certainly in industry the board of directors would not be expected to sit across the table with the union. Such jobs are left to professionals in the company.

Selecting the Board's Team

It is impossible to devise one board negotiating team which will work in all school districts. There are too many variations among school systems to do so. Regardless of the community, however, several points should be considered in making up a team to represent the board:

1. Outside consultants should be used when needed. In seeking outside consultant help boards should be sure to get the right consultant for the right job. If a school system has no experienced negotiators and is negotiating for the first time, serious consideration should be given to hiring a professional negotiator — at least until the school system feels ready to do the job itself.

Some school districts may hesitate to employ a professional negotiator because there is doubt that such a person would be familiar enough with the local system to represent it adequately or because professional negotiators are expensive.

As far as the first reservation is concerned, the negotiator's lack of familiarity with the local school system can be easily corrected by detailed briefing sessions with the school administration and the board.

As far as the cost of a negotiator is concerned, it is true that they are expensive, but when one considers the great experience they bring to a school district and the great amount of time they put into preparation and follow-up, the expense is understandable. Also, a small investment in an experienced negotiator can save a school system thousands of dollars in one year by avoiding costly mistakes.

Part of the negotiations service of the Washington State School Directors' Association is assisting local school districts in the location of competent professional negotiators. Sharing the services of such a person with other school districts can also be arranged through contracts with the association.

2. There should be only one spokesman for the team. More than one spokesman creates the following problems:

   a. Conflicts arise between the speakers. Misinterpretations arise regarding positions taken.
   b. Too much cross-discussion may arise between the two parties, making agreement almost impossible.
   c. The team might have its position revealed unintentionally or at an inappropriate time.
   d. Several spokesmen can reveal or create disunity in the team.

If the single spokesman needs to involve other team members, this generally should be done in caucus.

3. The board's spokesman should have a clearly defined scope of authority and should know how far to go on any issue. When the chief negotiator makes a tentative commitment, the teachers should be able to trust what they have been told. Anything less will undermine the negotiating process and weaken the board's position.

4. Middle management administrators should not be on the team. This includes building principals, assistant principals, supervisors, guidance directors, department heads, etc. Not only might they have their own negotiating unit, but these administrators are too close to the teachers on a daily working basis. Should they serve on the team they might damage their effective relationship with their teachers. Also, these administrators do not have system-wide responsibilities. Team members for the board should have broad administrative responsibilities.

5. Even though middle management administrators should not serve on the team, they should be consulted by the team on a regular basis during negotiations. This is particularly true of building principals. The majority of the contents of any agreement have a direct or indirect bearing on the principal's role. Such consultation should not be limited to building principals, however. Any administrator with specialized knowledge and responsibilities should be consulted prior to reaching an agreement pertinent to that person's field.

6. There should be at least three members on the team and no more than five members. Less than three is inadequate for an effective team. More than five is cumbersome.

7. One team member should serve as secretary. This is an extremely important position. This person is responsible for keeping an accurate summary of tentative agreements and of significant discussions. Verbatim notes and tape recorders should not be used. Such records interfere with the free flow of discussion.

8. Members of the board's negotiating team should be given necessary support. Team members will need time to prepare for, participate in, and follow up on negotiations. They will need clerical, secretarial, and administrative support. As a matter of fact, they should be given almost any help they request. To do less will needlessly weaken the board's position.

9. School attorneys should not serve on the team unless they are trained and experienced negotiators. Otherwise, they should provide only legal advice to the board and its team and should review for legality the final language of the agreement.

The Superintendent Should Not Negotiate

The superintendent should certainly avoid being the spokesman for the board's negotiating team and, in most instances, should not be a member of the team. This recommendation is controversial among teachers, administrators, superintendents and board members. However, experience has shown that the school district superintendent can be more effective by delegating negotiations to someone else. This position is taken for several reasons:

1. The superintendent does not have the time to be directly involved in negotiations.
2. The superintendent's status can be damaged by bargaining directly with teachers.
3. By being directly involved in bargaining the superintendent can alienate the instructional staff, thus undermining his or her leadership role.

The proper role of the superintendent is to advise the team and the board during negotiations and implement the agreement. It may also be necessary for the superintendent to serve as a "healing" influence should disputes divide the district.

Who Should Negotiate?

If superintendents, school board members, school attorneys, and middle-management administrators should not be on the negotiating team, then who should be? In school systems where there is a large central staff, the negotiating team should be made up of from three to five persons holding any of the following positions: assistant superintendent for general administration, personnel director, curriculum director, business manager, or some other administrator or supervisor with district-wide responsibilities.

In many cases serious consideration should be given to hiring a professional negotiator as the chief spokesman. In other instances boards will want to at least obtain professional consultation. As mentioned earlier, detailed information regarding such consultation is available from the school directors' association.

Small Districts Have Special Problems

In many school districts there is a very limited central administration. The superintendent in such districts may have only one assistant, and it may therefore be necessary to use a board member and/or the board attorney to make up a team. Again, serious consideration should be given to hiring a professional negotiator. The expense of employing such a person can be kept minimal by several districts joining together and contracting with the school directors' association for the services of a negotiator. Such an arrangement might well bring a group of school boards together in needed unity.

Maintaining Control

Even though members of the board are not involved in the actual bargaining, there are several ways that the board can maintain direct and indirect control over negotiations:

1. Before the board lets its team go into action, there should be an understanding of the limitations under which the team must operate. These limitations will vary from district to district. Regardless of these variations, however, the board should carefully outline in writing its parameters.

2. A second way that the board can maintain indirect control over negotiations is to establish a priority of items submitted by the teachers and items submitted by the board. In this way the negotiating team knows in advance which subjects are most important to the board.

3. Another way that the board can maintain control over negotiations is to prepare its own list of demands which it will exchange for the demands of the teachers. As a general rule, nothing should be given away without getting something in return which will improve the school system. In many instances, unknowing but well-intentioned boards have given away the store before they knew what happened.

This does not suggest that if the teachers submit 67 items that the board should submit 67 items in return. But by being ready with counterproposals, the board may have an opportunity in the bargaining process to obtain an improvement that otherwise would be unobtainable.

4. Negotiations can also be controlled indirectly by the board through the establishment of certain deadlines. Such deadlines help expedite negotiations. For example:

   a. A limit on the length of negotiating sessions.
   b. A deadline for the submission of teacher demands.
   c. A deadline for the reaching of an agreement.
   d. A deadline for having a meeting when either party requests a meeting.

Keeping the Board Informed

Keeping the board informed should not present a serious problem if a system is worked out in advance. The goal is to relieve the board and the superintendent of the burdensome part of collective bargaining but still reserve all necessary control.

In brief, it works like this:

1. The board meets with the negotiating team and the superintendent to: discuss ground rules; discuss priorities; develop a list of demands from the board; evaluate the demands of the teachers; and define the parameter limits of the team.

2. From there on out, the negotiation team meets with the teachers' representatives and carries on bargaining, reporting to the superintendent before and after every session. When the negotiating team reaches a point where it needs direction, it stops negotiations on that point and consults with the superintendent and the board.

3. The above process continues until the team comes to a tentative agreement which they can recommend to the superintendent and board.

4. The superintendent recommends the agreement to the board at a public meeting. Although the board should be ready to ratify the agreement, there is still this one last chance for the board to exercise its final authority.

B. Planning, Probing and Persuasion

The negotiations process can be divided into three phases.

Planning

Planning is the first of these phases, not only in time but perhaps in importance. The need for thorough and advance preparation requires special emphasis.

When should one commence preparation? The bromide is still worth repeating: "The day the agreement is signed is the time to start preparing for the next contract negotiation." This means such activities as keeping a record of contract clauses which are not working out satisfactorily and of grievances indicating need for improvement.

Local, state and national bargaining developments should be studied. An effective two-way communications system should be developed with the bargaining unit members. As a total result, it may be possible to know well in advance what demands and problems are likely to rise at the bargaining table. Boards may even be able to influence and condition the thinking of key members of the teacher bargaining unit.

When the union proposals are finally received, good planning requires that they be scrutinized and analyzed thoroughly before the next bargaining session. It is helpful to remember that the position taken on any of these demands may have to be defended before a fact-finding panel searching for inconsistencies and weaknesses in the positions of either party. Yardsticks to measure the union demands include:

1. Cost. All demands should be thoroughly "costed out". Often cost information alone is enough to demonstrate the unreasonableness of a union position.
2. Value to the educational process.
3. Administrative feasibility.
4. Conflict with board policies, rules and regulations.
5. Legality.
6. Within the scope of negotiations (mandatory and nonmandatory).
7. Should the demand be handled through the grievance procedure instead of in contract negotiations? Sometimes inquiring may reveal there has been no situation or incident to justify the demand.

Management proposals to teachers should also be the product of careful planning. They should be based on sound reasons. If they are trivial, they may be accepted by the union, and the union will then expect something in return for a concession the management did not really want.

Probing

After proposals have been submitted by both sides, the parties now enter the probing period. Each side is probing to find out the ultimate position of the other. Management may be aiming to settle for X, but the union may not succeed in ascertaining this and may be induced to settle for X minus. On the other hand the union may be willing to settle for X but convince the management it must grant X plus.

If both parties are bargaining in good faith, the positions which they take in probing objectives will be accompanied by reasons. It should be stressed that bargaining in good faith **does not require making concessions.** It does mean, however, making sincere efforts to find common ground for agreement. This involves giving reasons for positions taken, which is usually no problem.

Each side is willing to talk at length, but very often the difficulty is the inability to **listen.** The listener may be only half-listening because he or she is pre-occupied with preparing the next reply. Thus possible clues to a compromise may be missed. The art of listening bears cultivation in collective bargaining as well as in other social relationships.

In probing the positions of the teachers' bargaining representatives, some basic techniques to consider are:

1. Be sensitive to signs and signals. Often what is said is not as important as how it is said. The absence of a key word may be significant. For example, the union may stop demanding **binding** arbitration and begin to refer simply to arbitration — perhaps indicating a willingness to settle for **advisory** arbitration.
2. Observe the demeanor of all members of the teachers' bargaining committee. The chief negotiator may be speaking eloquently on a particular issue, but at the same time the rest of his committee may appear completely bored or uninterested.
3. Determine, by the above and other methods, the order of priority in the union demands, and proceed to test this by attempting to eliminate the less important items.
4. If it is not clear whether a demand has been dropped, do not attempt to ascertain its status by asking if it has been dropped. The union committee may have political reasons for not being able to drop the demand openly. An indirect inquiry may be more tactful, such as suggesting that all open items be listed by way of summary — then omit the particular demand in question in your listing.

The probing phases will begin to move gradually into the last phase of the negotiating process — that of persuasion.

Persuasion

It is relatively simple to answer a proposal with a flat no, or to give away more than one should with a flat yes. The test of the negotiator is the ability to work out and persuade acceptance of reasonable compromises.

What does this require? Again the need for thorough and advance planning must be stressed. The management team must have an intimate understanding of the issues involved in order to perceive the heart of the problem. Some techniques and cautions which must be considered include:

1. Successful persuasion is facilitated by package offers. In this way, when a concession is made, attached to it is the condition that other related demands be dropped or modified. This is helpful in guiding the other side, so that it is less likely to drop demands where there is room for compromise while retaining demands where there is no such room. In addition, one can more easily avoid the situation in which, after all concessions have been made, there are a large number of issues still unresolved.

2. If an impasse is reached on a given issue, it is advisable to proceed to some other issue rather than to belabor the point. Later, the time may be more appropriate for reaching agreement.

3. Reduce tentative agreements to writing promptly, but check with your attorney before signing. Agreements "in principle" may turn out **not** to be agreements at all. As a corollary it should be clear that agreements are tentative, subject to final agreement on the entire package.

4. Think affirmatively. Sometimes it may appear almost impossible to gain acceptance of a position one is trying to advance. In collective bargaining, however, one can never tell what the other side may accept eventually, if it is presented with persistence and conviction. Under no circumstances should one "pass the buck" by blaming a superior for a position one has to take. Such a posture simply results in loss of respect by the other side.

5. Try to avoid ending a negotiating session with either all negative answers or all affirmative answers. A good mix of both contributes to progress toward settlement.

6. Remain calm. Emotionalism (as distinguished from its simulation) has no place in negotiations.

7. Do not play the "numbers game" by feeling obliged to make substantial concessions simply because the union drops a substantial number of demands. Chances are the union had too many demands in the first place.

The final phase of the persuasion stage will find both parties in a settlement mood, each reasonably satisfied that all possibilities have been explored. Preferably the final proposals will come from the union. If management must make the final proposal, the union may try to get something more. If this is done with authority, the union committee should be satisfied that it "left nothing on the table."

There is a current tend toward membership meetings rejecting recommendations. For this reason all members of the committee should be required to sign a memorandum of agreement before negotiations are terminated. This will help to assure they will all do their best to gain membership acceptance. In addition, it may be helpful to prepare a detailed summary of the settlement to be distributed at the teachers' association meeting.

CHAPTER 2

The Process of Negotiations

A. The First Meeting

At the first negotiation meeting, ground rules must be established for the bargaining sessions. If the district has no rules, or if the ones it has are unmanageable, sample guidelines which have proven effective are available and can be adapted to fit each local situation.

The ground rules should set a regular time for the bargaining sessions. Generally negotiations should be conducted during regular school hours. Let the union pay for their negotiators' time, which will help expedite settlement. There should also be a time limit for these meetings. However, the team members should be flexible in this area. If a long period is required because it appears the parties are moving closer, they should stick it out to resolution.

Don't get held up on where the teams are going to meet. Just as the relationship of management and their employees varies from district to district, so does the importance of the location of the bargaining sessions.

Set a tentative schedule of meeting times and places, but again be flexible if cancellations become necessary. By establishing a tentative schedule, the negotiators can arrange their schedules with their other duties and can develop a reporting system with the administration, the community and the board.

Members of the negotiating team should make an effort to always be on time. This shows sincerity on their part to bargain in good faith. As the board's team, they represent the district and should act accordingly.

Introductions are in order at the first meeting so that the members of both teams can get to know one another on a first name basis. The board's team should identify their chief spokesman and state that they have been given the authority to negotiate for the board of directors of the district.

The board's team should state their understanding of who the other team's organization represents and should recognize their organization as the exclusive bargaining agent for those employees. Both teams must have the authority to enter into tentative agreements. If the teachers' negotiators must run back to a representative assembly or an executive board before tentatively agreeing to anything, negotiations will be a waste of time.

The parties should also have an understanding about the size of the bargaining teams, number of observers and releasing information to the press and public. Don't tie your hands with a joint press release agreement. Each party should limit its members at the bargaining table to from three to five. Any more than this becomes overwhelming and at times uncontrollable.

Also, the number of observers should be limited so that negotiations aren't being held in a "fish bowl". If an issue requires a person with expertise to attend the meeting, this should be allowed. Or if training and a more comprehensive understanding of the process is needed by either side, allow those observers to attend. Basically, try to work together in a confidential relationship.

B. The Board's Proposals: Strategies of the Counterproposal

Proposals and counterproposals are the substance of negotiations. They are the matters which are negotiated. It is through their artful presentation during the process of negotiation that an agreement is reached.

Distinguishing Proposals and Counterproposals

In the elementary context, teachers propose and boards counterpropose. As the initiating party in negotiations, the teacher organization introduces its set of demands or proposals and the board responds with counterproposals. The board should insist that the teachers present all of their demands at one time.

With some notable exceptions, traditional practice finds the board responding to a given proposal with a counterproposal addressing the same matter. For example, a proposal may ask that wages be increased by $1,000 per year, and typically, a counterproposal may be that they be increased by only $50. There are instances, however, when a counterproposal to a given demand may address an entirely different matter, and this is referred to as a foreign counterproposal. As an example, the board may counterpropose to the $1,000 salary request that the organization forego a grievance procedure in the contract being negotiated.

The reasoning behind a foreign counterproposal strategy may not be apparent on the surface. Among the possibilities potentially present in such a situation may be that the board could actually afford a $1,000 pay raise, but feels that the present grievance procedure has been too costly to implement. In such a case, the counterproposal would be saying, in effect, "You can have the $1,000, but the price of the raise is the grievance procedure." What ultimately may result as a consequence of further proposals and counterproposals in this fashion could be a salary increase of perhaps $400, together with a modified grievance procedure with fewer loopholes.

As a general rule teacher organizations present proposals, to which boards respond with counterproposals — regardless of the appearances or varying reasons under which they are presented.

The purpose of the proposal is to obtain something from the board. The purpose of the counterproposal is to obtain something from the teachers — even if it is nothing more than a more moderate proposal.

In rare cases contracts call for the board to initiate proposals with the teacher organization, which then assumes the role of counterproposing. Such a situation can be chaotic. Consider the implications inherent in such a reversal of roles. If the board enters negotiations and says, "We have no proposals," the teacher organization is able to introduce its proposals without fear of serious counterproposals. For, if the board does respond with counterproposals which address anything other than the matters introduced by the organization, the latter is in the position of claiming "bad faith" because the board already had indicated it had no original proposals of its own.

Even if the board then were to respond to a salary demand by asking that certain lanes or columns be removed from a salary schedule, the organization could claim that this represented something new, which the board had previously waived in passing up its right to introduce matters for negotiation.

On the other hand, if the board should introduce a comprehensive set of demands, anticipating the full range of demands ordinarily presented by the organization, the teacher representatives are handed a golden opportunity to capitalize through their publicity machinery on public sympathy as being the objects of oppression by a merciless board which would exploit them extensively. Beyond that, the teacher organization would be in the further position of responding with demands the excessiveness of which it could justify on grounds of self-defense.

Boards which find themselves in the situation described above need expert help in extracting themselves from such a predicament. In all of bargaining, the employers are the "haves," while the employees are the "have-nots." The have-nots seek whatever it is they want from the haves. They do so by making demands which are bargained with counter-demands. Only when a board has previously given so much away in an agreement that its role with the have-nots becomes reversed, could such a condition be imagined.

There are, however, numerous cases in which boards have entered negotiations not so much concerned about what they can or cannot give away this time, as they are concerned about getting something back that they gave away before. In this situation, the effort to retrieve a concession may well be considered a proposal, in that it initiates negotiation on a specific matter. Even so, it will be entered into the negotiating agenda as a counterproposal along with other counterproposals the board offers in response to the total package proposed by the teachers.

Counterproposals Toward Agreement

The simple model of negotiations is presented in the brief series of events which begins with the presentation of a single demand. If the demand is granted in full without hesitation, debate, or condition, it cannot be said that negotiations took place on the matter. Such a sequence instead describes acquiescence, concession, or capitulation. When the party to whom the demand is made responds in any other way than immediate agreement, however, negotiations may be presumed to be in effect. If the response involves less than full concession, a counterproposal is expressly or implicitly stated.

The counterproposal may amount only to a slight modification in the original proposal, a clarification, or little else — assuming that the original proposal was reasonable and acceptable in essence.

Or, when the original proposal is excessive and clearly impossible in both its terms and its intent (as in the case of basic management rights), the counterproposal will be equally prohibitive.

The purpose of the counterproposal — whether taken singly or in a comprehensive design — is to permit negotiations to move effectively toward an agreement which is not only acceptable to both sides, but which is satisfactory to both, as well.

Getting Something for Something

The erroneous assumption is often made that the negotiating parties are required to reach agreement. They are **not** obligated to agree to any proposal or to make any concession. Instead, they are obligated only to make a good faith **effort** to reach agreement on wages, hours and terms and conditions of employment. The assumption is that, if such an effort is made, an agreement will be reached.

The board's negotiating team is not obligated to offer counterproposals to every teacher proposal. A collective agreement should reflect a **quid pro quo** (getting something for something) — but this applies to the agreement as a whole, not necessarily to each item. The advisability of offering a concession on a particular demand depends on the demand and the circumstances.

Reject Without Countering

If a demand clearly has no merit or genuine support, and is made simply as a throwaway item, it should be rejected without concessions or counterproposals. After careful study of the demand, the board's negotiator should point out why the demand is unacceptable, and then reject it. Even teacher demands which have some merit may be rejected for good reason.

Real Conflicts Likely

Nevertheless, above and beyond the throwaway items, there are likely to be real conflicts and differences between the parties. If salary money is really tight, there will be greater teacher pressure to secure major concessions on non-monetary items. The teacher negotiators must gain some concessions in order to remain in leadership positions. If the concessions are not monetary items, management policies make an obvious target for achieving the needed victories.

Unfortunately, it is easy to cripple school management by using this tactic. Because the board cannot offer a good money package, it may feel impelled to make undesirable concessions on promotion policies, transfers, leaves, educational program and so on. The point is not that the board should never make any concessions on these items but that they should avoid making concessions which cripple efficient management of the district. Significantly, the lowest paying industries outside of education are often the worst managed, because management got in the habit of making undesirable managerial concessions to compensate for low wages.

In other words, don't give up the authority to manage efficiently in exchange for a relatively poor economic package.

The Long List of Demands

What should the board's negotiating team do when confronted by long lists of teacher demands? For one thing, the team should insist upon specific justification for each and every proposal. In this way, board negotiators can usually tell, rather quickly, which teacher proposals have been merely copied from other agreements and which grow out of genuine needs in the local system.

Waiting for the teachers to move first does run the danger of stultifying, inch-by-inch concessions. But even inching toward agreement is better than continually modifying one's own proposals without any movement from the other side.

Frequently, there are hang-ups over proposals that do not really affect the substance of the agreement. One party or the other may want certain clauses which are editorial in nature and for propaganda or public relations reasons.

A board cannot, however, always balance off its editorial needs and those of the teachers. Unfortunately, too many boards unwittingly accept (or do not know how to counter) the argument that an item should be included because "it only restates the law" or "really has no contractual significance." As a result, considerable time is spent negotiating preambles and other items which do not specify any terms or conditions of employment. The board may find itself incorporating statutes into its agreement, thereby 1) providing contractual remedies for alleged violations of the statutes incorporated, 2) adding to the costs of negotiating the agreement, and 3) encouraging a propagandistic and nonbusiness-like approach to bargaining.

There are occasions when a board's negotiating team can accept clauses whose only effects are editorial. Such clauses should be few and far between, and should involve appropriate, reciprocal credits or concessions from the teachers.

Remedying Mistakes

The policy suggested above for editorial matters makes equally good sense when applied to mistakes at the bargaining table. Experienced negotiators on both sides occasionally make mistakes. They inadvertently overlook items, or agree to clauses they would have rejected if understood accurately.

If often makes good sense to call the teachers' attention to an oversight. The dividends, in good will alone, are often sufficient return.

Better yet, call the organization's attention to its oversight if and when management needs to remedy one of its own. Since board mistakes are always possible, the board's negotiators can hold those of the teachers in silent reserve until they need them to get off some hook themselves.

Saying 'No' with a Counterproposal

In an increasing number of circumstances teacher organization proposals are designed for the purpose of transferring control of school management to the organization. In this case, the counterproposal may become, in effect, an alternative way of explaining to the organization that the board's response to the demand is "no".

The fact that a flat refusal to make any concession or to compromise the public interest in principle can be a legitimate response is rarely accepted by the organization. To such flat refusals to a given matter, the stock answer has been to accuse the board of failure to bargain in good faith.

Again, while the purpose of negotiations is to come to an agreement, an obligation to negotiate in good faith is not an obligation to agree. Any less definition only invites intimidation, blackmail, or other forms of coercion — practices which have not been uncommon to some teacher organizations while they were actively engaged in publicly condemning the same practices.

A related issue involves the question of whether a board can, while dealing honestly and effectively with its employees, offer a counterproposal which is as impossible for them to accept as the original proposal is impossible for the board to accept. In terms of simple justice or fairness, a board obviously is able to do so. But there are always other considerations with which such a decision must be weighed.

There are disadvantages, as well as advantages, to which study must be addressed in each case. Among the disadvantages are several dangers: (1) the teacher organization may deliberately or unwittingly misinterpret the meaning or intent of the counterpropsal; (2) the organization may create a publicity clamor alleging "bad faith bargaining" or exploitation; (3) an unnecessary breakdown of negotiations could be induced; (4) while effectively dealing with one impossible demand of the organization, the counterproposal may effectively thwart other reasonable and legitimate goals; or (5) the counterproposal may inadvertently introduce into bargaining some matters which should not be negotiable.

Special Cautions

There are four conditions under which, as a general rule, the board should **not** offer a counterproposal. Taken together, they provide a convenient and important check list against which the comprehensive set of board counterproposals should be compared. The four conditions are:

1. If the counterproposal introduces into bargaining a matter which is not negotiable.
2. If, in the event it should be accepted by the teacher organization, it could not be appropriately administered or enforced.
3. If it does not fairly represent an appropriate public policy.
4. If it is intended to, or could, thwart the legitimate and appropriate interests of employees.

Classification of Organizational Proposals

In order to better understand a sound approach to the design of appropriate counterproposals it is helpful to classify the various kinds of proposals which are commonly being introduced.

CLASS I: Organizational Control

The essential purpose of proposals aimed at capturing partial control of school management is to place such matters into written contracts, thereby transferring them out of the exclusive authority of the board and into the world of contract law. These are the most dangerous proposals to the public interest. An example may be cited:

> *PROPOSAL: A grievance is defined as any claim by the Association or by a teacher that there has been a violation, misinterpretation, or misapplication of the terms of this agreement, a*

violation of its or his right to fair treatment, or violation, misinterpretation, or misapplication of any established policy or practice of the Board.

The above proposal describes what the organization would want to constitute the limits within which grievances may be established. The proposed limits obviously, are next to infinite. The effect of the proposal, if it were accepted by the board, could easily be that virtually any policy, practice, or act of the board or its agents would become subject to third party review and, potentially, to reversal. In itself the proposal does not give outright control, nor even an equal share of control, to the teachers' organization. It is only after the completion of the grievance procedure, ending in binding arbitration, that transfer of control becomes possible. This can occur when the arbitrator's ruling is against the board. Then, not only is that particular case taken out of the hands of the public representatives, but precedent is established whereby all future, similar cases are won in advance, or are controlled by the organization.

CLASS II: **Organizational Benefit**

The distinguishing characteristic of this class is that the purpose of proposals is to produce a specific benefit through negotiations which primarily serves the interests of the organization, rather than the direct interests of its members. An example:

PROPOSAL: All teachers as a condition of continued employment shall either: (a) sign and deliver to the Board an assignment authorizing deduction of membership dues and assessments of the Association (including the National and State Education Associations) and such authorization shall continue in effect from year to year unless revoked in writing between June 1 and September 1 of a given year, or (b) cause to be paid to the Association a representation fee equivalent to the dues and assessments of the Association (including the National and State Education Associations) within sixty days of the commencement of employment. In the event the representation fee shall not be paid, the Board, upon receiving a signed statement from the Association indicating the teacher has failed to comply with this condition, shall immediately notify said teacher that his services shall be discontinued at the end of the current semester. The refusal of said teacher to contribute fairly to the costs of negotiation and administration of this and subsequent agreements is recognized as just and reasonable cause for termination of employment.

The above example, an "agency shop" clause, is clearly directed to the primary benefit of the organization, rather than to the individual. Indeed, it is at the expense of the individual that it would be included in a contract.

CLASS III: **Strategic**

A strategic proposal may be designed to accomplish one or more of several purposes. Among them are (1) to incorporate by reference other disguised or obscure conditions into the agreement; (2) to compound the effects of other portions of the agreement by means of cross-referencing; (3) to distract attention by dramatic or other techniques from less spectacular but more vital proposals.

An example of a proposal for the purpose of strategically incorporating other conditions into the contract is typically stated as follows:

> *PROPOSAL: As evidence of their commitment to the maintenance of professional standards, the Association and its members agree to abide by the terms and conditions of the Code of Ethics of the Education Profession.*

The importance of such a strategic proposal to incorporate the **Code of Ethics of the Education Profession** by reference into the agreement lies in the extreme advantage such a contractual prerogative would give to the teacher organization. As innocuous, even magnanimous, as the proposal appears on the surface to be, its contractual consummation could result in the establishment of the **Code of Ethics** as a major avenue of recourse for the organization and its members in the grievance procedure, ending in binding arbitration. It must be remembered that the **Code of Ethics** is established only by the National Education Association and it may be changed only by it and **at its own pleasure.** Thus, if NEA were to choose to enter into its **Code of Ethics** a standard which should require members to teach only one class per day, any assignment in excess of that could become grievable and subject to reversal in arbitration.

An example of a proposal designed to compound the effects of other clauses by means of cross-referencing is:

> *PROPOSAL: The parties agree that it is in the best interest of all concerned to establish orderly procedures whereby representatives of both parties may negotiate in good faith on matters of common concern.*

The effect of this clause, lifted from a rather typical proposal and found in the preamble, is to expand the definition of what is negotiable, even though later in the list of proposals a more limited definition of what is to be subject to negotiation is given. By factoring out various elements of a total plan into various parts of the proposed contract, the organization has been able in many instances to achieve acceptance of definitions which probably would have been modified had each element appeared in the same context. A board may agree to a definition of what is negotiable in a specific clause in the contract, only to have that definition infinitely expanded by this cross-referencing technique. It is difficult to imagine anything that the organization would not be able to introduce into bargaining if the board agreed to negotiate "matters of common concern." For even though the board may claim that it has no common concern with the teachers in wanting to negotiate, for example, class sizes, the organization is able to claim that its own overwhelming interest in that matter is sufficient reason that the board had better become concerned.

This final example of a strategic proposal illustrates how a given matter may be employed as a distractor from the essential purpose involved:

> *PROPOSAL: Teachers shall have the right to organize, join, and assist the Association, to participate in professional negotiations with the Board through representatives of their own choosing, and to engage in other activities, individually or in concert, for the purpose of establishing, maintaining, protecting, or improving conditions of professional service and the educational program.*

In this case there is the dramatic element of the cleverly phrased appeal for "granting" to the teachers and to the organization (as though it had been formerly withheld) their constitutionally-guaranteed right to exercise freedom of association. For a board to flatly deny this proposal places it in the precarious, defensive position of being led into an entrapment with the image of a trampler of civil rights. The catch to this proposal, of course, is contained in its second half, ". . . and to engage in other activities . . ." etc. This obviously describes a strike and/or other disruptive activities virtually without limit.

CLASS IV: **Employee Benefit**

This class of proposal is the one in which the board may have its highest appropriate concern because employee benefits certainly are appropriate matters for bargaining from the point of view of teachers, and are appropriate matters of concern for conscientious employers.

The primary example of these proposals is the salary demand. There are others, of course, including some which, in terms of kind or degree, may be unreasonable. Such proposals, when presented in appropriate areas and in reasonable degree, merit the most consideration from the board.

CLASS V: **Pupil-Clothed**

Those proposals which are packaged in the garmentry of "the educational interests of the pupils" are included in this classification. The strategy of such proposals is the philosophical equivalent of the tenet that any means is justified to reach the desired end. An example of the pupil-clothed proposal is:

> *PROPOSAL: A permanent committee is hereby established for the purpose of improving the teaching of reading in the district. The committee shall consist of four persons appointed by the Board and four persons appointed by the Executive Committee of the Association. The committee shall select a chairman.*

Ostensibly, the purpose of the proposal is to improve learning conditions for pupils. Unmistakably present in its terms, however, is the clear meaning that the responsibility for improvement of instruction will be shared by the board and the organization. Nor is there any express or implied limit to the powers of the committee to proceed to execute its task in any manner it sees fit, even if such should require the expenditure of unspecified funds, the employment of additional personnel, the selection of additional textbooks, ad infinitum.

Further, the most far-reaching implication of the proposal would be to establish the precedent of employing such joint decision-making committees on any matter relating to the operation of the schools.

CLASS VI: **Public Relations**

This kind of proposal has very little long term value to either the organization or its members. Its essential purpose is to present the image of highly principled, pupil-centered professionals who are bargaining chiefly out of an overwhelming dedication to the improvement of education. These proposals are the flag wavers, the sympathy-evokers, the God-country-motherhood variety. They are the proposals intended to impress the board with the selflessness of the organization and its members and, should they fail to convince the board, they are the proposals which find their way into the newspaper advertisements as being representative of the kinds of things the board has refused to grant to its "second-class citizen" employees. Example:

PROPOSAL: The Board agrees to provide a dictionary in each classroom.

In one school system in which this particular proposal was presented to the board, the number of dictionaries in each classroom and in each school building closely approached the total number of pupils enrolled. Its sole value was to harass the board for public relations advantage. If the board were to agree to the proposal, such agreement could be cited as evidence of the need the organization was seriously attempting to meet through negotiations. If, on the other hand, the proposal were rejected, along with other nuisance proposals, it obviously could become prime puffery fodder for the organization's full-time flak specialist.

CLASS VII: **Straw Man**

This final classification of proposals is the most difficult to identify in terms of content for the reason that it may include proposals addressed to an infinite variety of subjects. By definition the Straw Man proposal is the item introduced under appearance of all seriousness solely for the purpose of creating trade-off capabilities. It may relate to salary, extreme fringe benefits, or to virtually any matter which may be found in the other six classifications. Its true identity is known only to the negotiating strategist. Commonly it will address a matter which the organization would like to obtain, but realizes that it may be impossible to achieve. But that very reason — the fact of its extreme nature — makes it a thorn in the side of the opposition which, presumably, may be traded away during the course of negotiations for a concession on another matter.

Occasionally, because of the tendency for such proposals to lie at the extreme limits of credibility, they may be spotted. One example which was so identified by board negotiators during the course of their analysis of the organization's package of proposals was stated this way:

PROPOSAL: The Board shall provide legal counsel which is mutually acceptable to the Board and the teacher and shall render all necessary assistance to the teacher in his defense as a result of any action taken by the teacher while in pursuit of his employment.

The extreme nature of the proposal is self-evident. Moreover, taken in its full context with other proposals with which it would interlock, its meaning is childishly ridiculous. In their sequential and cumulative effect, those proposals would (1) make it possible for teachers to grieve on any matter which displeases them; (2) take all the time off from work at full pay they deem necessary in order to "process" the grievances; and (3) force the board to pay the entire cost of processing each grievance, including legal services.

Such a proposal is classified here as a Straw Man because it is doubtful that even the most naive board or board negotiator would fail to recognize its impossible nature. Hence, it may be presumed to have been introduced for the purpose of creating a trade-off value for which the board may be willing to pay dearly, while the cost to the organization would be nothing.

Factoring the Proposal

Before counterproposals are considered, the first task of the board is to analyze the organization's **complete** list of proposals.

With boards new or relatively inexperienced in bargaining, a common tactic of the organization is to introduce its proposals one at a time, or in piecemeal fashion. Often a "procedural agreement" is proposed for negotiation before the "substantive" items are revealed. In naive good faith many boards have fallen prey to this carefully planned tactic. In so doing, they have unwittingly committed themselves as to how they are going to go about doing what they don't know they will be doing. It is imperative that all matters to be proposed are in hand before any action of any kind is taken upon them.

When all matters to be introduced for bargaining are in hand, the task of analysis begins. A step-by-step procedure which may be useful would include:

1. Classify each proposal according to its apparent intent and content.
2. Reorganize the order of proposals to place those which relate to the same matters in contiguity with each other.
3. Identify areas of cross-referencing.
4. Reclassify the proposals on the basis of their cumulative or compounded effects when taken together.
5. Separate each proposal into its smallest divisible units or phrases.
6. Cost-analyze each item in isolation and again in combination with the other items which may alter its cost.
7. Test each proposal in isolation and in combination with those with which it is cross-referenced against the check list below.
8. Determine the ultimate limits or degree to which each item or the concept it involves could be accepted. Use a confidential code to characterize these limits for future reference when writing the counterproposals and when engaged in debate across the table.
9. If the board's final position on each item is less than an outright "no" an individual counterproposal is written to each item. Its position on the agree-disagree continuum will be at least as distant from the position of the teacher organization's proposal as theirs is distant from the board's final limit.
10. Set forth the board's rationale while writing each response, for later use in debate. Each opposing position will have its separate and specific reasons. Reference may again be made to the check list below.
11. Organize the individual counterproposals into a comprehensive response, generally but not always, in diametric opposition to the proposal to which it is related. Use of the tactics of cross-referencing, splitting definitions, and incorporation by reference may be made as imaginatively by the board as by the organization.
12. Enter negotiations, equipped with at least as much substantive power as the other side has at the table.

Within the various modes of counterproposing that are available to the board lie many possible degrees of option, or sub-modes, or combinations. These may be utilized to reflect pupil interests, management rights, or public, taxpayer concerns. Further possibilities may be uncovered by the analysis of the individual proposals as they are measured against the check list which follows.

A CHECK LIST FOR ANALYZING TEACHER ORGANIZATION PROPOSALS

_____ Is it educationally sound and supported by conclusive research?
_____ Is it needed?
_____ Is it negotiable (mandatory or non-mandatory)?
_____ Does it subject private interests to the larger public interest?
_____ Does it avoid the potential for conflicts of interest?
_____ Does it involve someone else's job description?
_____ How would it affect other employees?
_____ Does it violate management rights?
_____ Can it be administered fairly and efficiently?
_____ Does it comply with existing law in letter and in spirit?
_____ Does it comply with board policy and practice?
_____ What precedents would it establish?
_____ What would it cost?
_____ Does the teacher organization offer a tangible improvement in services to pupils commensurate with this benefit asked?
_____ Can its positive and negative effects be measured?
_____ Is it to the individual employee's benefit rather than to the organization's benefit?
_____ Does it encourage experimentation and innovation?
__✓__ Does it acquire any cumulative, multiple, or new effects when considered with other proposals?
_____ Are its intents clearly stated?
_____ Are all definitions perfectly clear?
_____ If it passes the above tests, could it be written better in more precise language?

Focus of the Counterproposals

Counterproposals are the vehicle for turning the tide of negotiations from the defensive to the give-and-take posture of bargaining. It is necessary for boards to focus upon the substance of counterproposals as a concern largely independent of classifications and modes, and to address the question of what it is that teachers and their organizations have which boards may ask of them in return.

There are three general areas — time, talents, and treasuries — which teachers and/or their organizations either have or claim to have in abundance. It is to those areas that boards may look for the substance of many counterproposals.

Time

The most abundant entity which teachers have is time. Whereas the common standard of employment is on a year-round basis, the work year for teachers is ordinarily between 180 and 185 days — approximately half the days in the year. The difference, to be expressed fairly, of course, must compare the actual number of work days per year. In an ordinary full-time job a worker would work five days per week, fifty-two weeks per year, less vacation time of from two to four weeks and less approximately eight paid holidays, or approximately 237 days. Teachers, in other words, work approximately seventy-five percent of the number of days worked by others.

Then there is the matter of working hours per day. The image which the teachers' organizations attempt to project is that of the exemplary teachers who arrive at school an hour beforehand and busy themselves with preparations for the day. After school they stay late, conferring with pupils, correcting papers, and when they leave at the dinner hour, books and papers go with them for attention that evening.

The sad thing about the image is that it is accurate for many dedicated professionals who are committed to children and to education above and before self, but it is not the image of the collectivists in educations. The latter welcome the opportunity to garb themselves in the respectable raiment of the dedicated teacher when it suits their purposes to do so.

For the run-of-the-mill collectivist, their proposals call typically for less work and more pay. It is they who are commonly obligated to teach from five to six hours per day, often less. They are the ones who will demand more assistance by aides, by clerical workers, and by secretaries so that they will have "more time to teach." Upon getting more and more aides and clerical and secretarial help, however, they then demand less time for teaching and more time for preparation.

Time is the element of which they have more, perhaps, than any comparable class of workers in society. Time, then, becomes a major demand that may be expressed in counterproposals: time in teaching; time spent in individual counselling and tutoring; time spent in directed study of curriculum and other education problems; time spent in skill improvement for the benefit of pupils.

Time is also a resource available to the organization. It calls upon its members to serve on various committees, to attend political and organizational functions, to process grievances, and to attend to a wide variety of organizational interests. Boards should ask for the commitment of large quantities of this time for specified activities relating to the improvement of the quantity and quality of services to children. If the organizations can demand that the board and its administrators must spend time on matters (such as bargaining and on implementing the matters bargained) that are dictated by the organization, cannot the board reciprocate and ask the other side to be required to invest substantial quantities of its time in activities set forth by the board?

Talent

This is the item that teacher organizations have claimed to have in great abundance. Such claims are often expressly made when debate is taking place on the merits of proposals that would give teachers a "voice" in curriculum, management rights, and in educational policy. Teachers are the real experts on what ought to take place in the classroom, the claim states. They ought to be making the decisions on the matters in which they are most knowledgeable.

It is not necessary for the board to admit that teachers have more collective knowledge than the collective knowledge held by administrators, curriculum specialists, researchers, behavioral psychologists, and other educators far more experienced and more highly trained than the teachers who would shout them down. The board may simply accept the organizational claims to such knowledge at face value and demand that it be demonstrated in ways prescribed by the board for the benefit of children. Here is the primary element of which substantial counterproposals may be designed.

The organizational claim piously made to the public is that "teachers only want a meaningful voice" in the determination of educational affairs. It is too valuable an opportunity for boards to pass by, if they would truly enter into negotiations in the expectation of obtaining something for their constituents of equal value to those things being sought by the vested interests. The fact of the matter is not that teachers want a voice, but rather, that the **organization** wants a voice in the **name** of the teachers. Having given their authorization to the organization to speak for them, the teachers, instead, are already sacrificing their voices and their opportunities to express them if they should differ with that of the organization.

The last thing the organization wants is for the teachers to have their full and equal rights to their independent professional voice. It must have their voices for itself. Only then can it channel their thinking for them, whether they like it or not. And the organization knows how to intimidate any individuals who are so brash as to voice their own feelings or to take their own course when it differs from that of the organization.

Boards, on the other hand, have always wanted teachers to voice their most competent professional views and opinions on all matters of importance to education. The apparent dichotomy in this entire situation lies in the fact that what the board means when it says it wants the "voice" of teachers is advice. What the organization means by "voice" is control.

Treasuries

Both teachers and their organizations have money — more money than ever before. The national organizations, like the labor unions before them, are growing more and more affluent. The union is able to pour far more money into creating a crisis in a local system's negotiations than the individual school system is able to spend.

Several opportunities may be seen for the board to invite the organizations to spend money as a consequence of what is negotiated, as well as on the process of negotiations. One of the interesting opportunities lies in the fact that the organizations are zealously pursuing agency shop clauses, which they justify because of the expense involved in obtaining benefits which are then shared by members and non-members as well. It seems reasonable to apply that same logic to the other side of the coin. Is it not just as reasonable for the board to ask the organization to share the board's costs of negotiating with it? Is it not just as reasonable to ask the organization to share the board's cost of processing grievances? Is it unfair to ask the organization to indemnify the board and the pupils against educational deprivation when teachers are absent on organizational business? Or when they are on strike?

In Summary

Counterproposals are the only means through which boards may hope to escape the defensive game wherein they are prevented from obtaining through bargaining an agreement which is as fair to one side as it is to the other. They are the only means of enforcing accountability upon the organizations in proportion to the authorities and rights they are attempting to obtain. They are the one promise of turning negotiations around so that they may bring meaningful advances not only to employees, but to the clients of education.

Imaginative attention to the design of appropriate counterproposals can bring fairness back to employer-employee relations. They should point out to the responsible elements of organizational membership the unrealistic extent of the demands being made. They can be employed to establish functional limits of bargaining by building strong defenses in critical areas, and by returning the decision-making processes into the realms of reason and out of the fields of force.

C. Negotiating with Noncertificated (Classified) Employees

Although attention in recent months has focused on teacher collective bargaining, school boards have also become more and more deeply involved in bargaining with other employee groups. In fact, bargaining with noncertificated employees preceded teacher bargaining due to a 1967 state law covering collective bargaining for public employees except teachers (reprinted as an appendix).

Negotiating with classified employees has most of the pitfalls of negotiating with teachers. It also poses some additional problems which can be extremely troublesome.

Suppose the school secretaries want to negotiate a contract. If a separate contract is negotiated for secretaries, a host of other groups, such as bus drivers, custodians, and cafeteria workers, may also ask to negotiate a separate contract.

Also, the employees, or some of them, may object to representation in a negotiating unit that includes widely disparate kinds of personnel. Secretaries may feel that they lack a community of interest with bus drivers, and vice versa. Cafeteria workers may feel that they should not be in the same negotiating unit with custodians, and so on.

The public employees collective bargaining law specifically outlines the qualifications an organization must meet in order to be an official bargaining agent. Any organization of classified employees which meets these requirements may be recognized by the board to be the official bargaining agent for any one group or a combination of groups, or indeed all of the classified employees of a school district.

If another organization protests this recognition, the Public Employment Relations Commission can step in, make a determination and, if necessary, order an election.

Once the official bargaining agent is established it is the responsibility of the board of directors of the school district to recognize it and to negotiate with it. As in the case of bargaining with the teachers, the actual task of negotiating should be delegated to a competent team which does not include members of the board or the superintendent, and it is desirable to have the same person responsible for negotiations with all groups.

Negotiating with Separate Units

Most school districts, as is the case with most employers generally, find it advantageous in the long run to negotiate with as few unions as possible. One advantage is that there is less danger that the board will be whipsawed by competing groups. Secondly, negotiating with one union saves time, since there is only one process of negotiations, even though it is more complicated than negotiations conducted separately with a number of groups. Also, there is likely to be better coordination than if there are different sets of negotiations.

Perhaps most importantly, if fewer unions are involved, the employees themselves must play a more responsible role in allocating district funds. If there are several separate negotiating units, each represented by a different union, there will be intense competition among them to get the best possible agreement, regardless of the effects on the other employees. However, if one union represents several different kinds of employees, the employees must work with management to take some of the responsibility for adjusting the claims of the competing groups. In other words, as more diverse kinds of employees are included in the same negotiating unit, more pressure is put on the union negotiators to divide up the goodies equitably.

Keeping Confidence

If the secretaries seek negotiating rights, either as a separate group or with other employees, the board should be careful to exclude secretaries serving management personnel who are active in negotiations. Clearly, it would not be appropriate to have the secretary for the superintendent included in a negotiating unit. The confidential aspects of that position would leave both the secretary and the superintendent in an untenable position. The superintendent could hardly entrust the dictation or typing of confidential memoranda on strategy or on the board's bedrock position to a secretary who was one of the employees affected by the memoranda. Similarly, such secretaries would be in embarrasing positions if they were represented by a union but failed to give it information available to them during negotiations.

The only practical solution is to exclude personnel from the negotiating unit if they hold sensitive positions of this sort.

Watch Your Language

The board's negotiating team should be very careful of its terminology in bargaining with representatives of the district's noncertificated employees. It is not advisable to use the term "nonprofessional" when referring to the noncertificated or classified employees. Most of them like to consider themselves "professional" whether or not they are certified.

In fact, the board and its negotiating team should avoid anything that smacks of second-class citizenship in bargaining with classified employees. Teachers are not the only employees who can shut down a school system . . . as some districts unfortunately have learned the hard way.

The board must also always visualize how its teacher agreement will affect the attitudes and aspirations of other employees. For example, will the percentage raise given to teachers be available to the others? If not, why not? Telling the noncertificated employees they will not receive as much, percentage-wise, because the money has gone to the teachers is an excellent way to foster noncooperation among essential employee groups.

First Things First

If more than one contract is to be negotiated, it is better to complete the one which will provide the lowest relative improvement first. It is extremely difficult for subsequent negotiators to accept a less favorable package than their predecessors. Remember that negotiators must answer to their constituents who are not likely to ratify a contract they regard as less favorable than the teachers' contract or than any other group's contract.

Furthermore, on some items, the board will find it difficult to treat classified employees less generously than teachers. For example, it would be difficult to allow teachers more religious leave than is allowed other kinds of employees. Such a difference would be embarrassing to support, either at the bargaining table or in the forum of public opinion. Hence, a sensible policy would be to review every concession made to any group from the standpoint of its potential effects on other employees in the system. Needless to add, such review ought to be made before, not after, the concession is made.

CHAPTER 3

Concluding Negotiations

A. The Agreement

Contract: An agreement between two or more parties, especially one that is written and enforceable by law. Synonyms: agreement, compact

The ultimate goal of collective bargaining is the development of an agreement between the school board and its employees which supports the district's philosophy of education within the limits of the district's budget. Such an agreement should be equitable to the employees and should retain all management rights and responsibilities with the board of education.

Under Washington law, negotiations agreements must be in the form of a written contract if either the board or the teachers' organization requests such a document. Thus it is important for board members to understand the main elements of a contract.

Required elements and their purposes are:

1. Preamble — to identify the parties and to show how they will be referenced in the agreement
2. Recognition — to define and confirm the rights of the parties to make the agreement
3. Duration of the agreement — to define the extent of the life of the agreement
4. Signatures — to certify to the validity of all of the provisions of the agreement and to the intention to perform within the limitations of those provisions

In addition to these "bare bones" requirements, the negotiated contract would contain clauses spelling out the "wages, hours and terms and conditions of employment". Other appropriate items to be included in the contract would be salary schedules, a definition of leave privileges and a grievance procedure. Keep in mind that the fewer items in the agreement, the easier is the administration of that agreement.

If there are any advantages written into an agreement, they normally are in favor of the party writing the agreement. A careful study of the proposals usually made by teachers' organizations will confirm this fact. The inclusion of long and complicated sentences, philosophical treatises, flowing rhetoric and legalistic phrasing often mask and obscure the real implications of a proposal. Before agreeing to include a proposal in an agreement, it is well to remember that in the event of arbitration or of judicial review the most literal interpretation of the wording will normally be adopted.

Drafting the Agreement

Some points to remember when drafting the final agreement:

1. Use short sentences.

2. Use uncomplicated language. Be as precise and explicit as possible.

3. Include no philosophical statements.

4. Make no unnecessary references to outside source materials. For example, a reference to a code of ethics or to a statute may cause these documents to be considered, in their entirety, as an essential part of the agreement — even to the point of being subject to grievance.

5. Cite as few statutes as possible. If it is necessary to include statutes, **never** attempt to paraphrase the law — always use exact quotations.

6. Don't settle for assumptions, interpretations or explanations. Make the words say, plainly and exactly, what you want them to say.

7. Avoid writing administrative forms into the contract, even as appendices. It may become necessary to revise them at a later date.

8. Insure review of the agreement by a competent legal counsel. Be sure that this review takes place before acceptance by the board and also that each proposal is reviewed prior to tentative agreement.

B. Ratifying the Agreement

The fact that the agreement must be ratified by both the board and the teachers' organization membership should be kept in mind throughout the bargaining process. If the board has given realistic parameters and if the negotiators have kept the agreements within those bounds, the board approval should be almost automatic. The agreement should be ratified, not adopted as board policy. The negotiating team may find that the hardest part of their assignment is to keep the board steadfast in its commitments. They should make frequent periodic progress reports with recommendations if they find the board's limits to be difficult to meet or maintain.

The board should realize that the negotiating process itself may require changes in its original stance on many subjects. If the board is able and willing to adopt and maintain reasonable limits for the negotiating team, which in turn makes reasonable efforts to observe the board parameters, ratification of the agreement will present no problem.

Ratification by the organization membership must also be a concern of the board negotiating team. At the conclusion of negotiations the employees' representatives must be able to present their membership with a package that they can reasonably expect to be accepted. It is of real importance that the teachers' negotiators present an agreement that they can personally endorse. By returning a proposal to their membership with negative recommendations, or no recommendations at all, they can put the "kiss of death" to long hours of hard work.

Allowing both sides to "save face" is an important principle in assuring ratification. Neither side can win all the concessions, but allowing the other side to mask major concessions with some apparent gains can remove the sting of capitulation. Both parties must have reason to feel that they can live, if not prosper, with the arrangement.

At best, the ratification of an agreement is merely an armistice — in a short time negotiations will begin on a successor agreement. An unreasonable attempt to force the employees to accept a settlement that is less than satisfactory to them can only lead to difficult negotiations in the future. To give the other team a chance to present the agreement in a self-saving light can help them win ratification.

C. Administering the Agreement

After the agreement is negotiated and ratified, the final step is learning to live with it. A firm understanding of its provisions by the entire staff is a primary requirement.

As the building principals are the first line of employee-management contact, it is important that each of them thoroughly understand the agreement. They should be furnished enough information concerning the agreement and its background for them to be able to satisfactorily answer any usual questions of the teachers.

The administrative staff must be knowledgeable about those sections of the agreement which concern their particular work. It is advisable to have one well-informed individual assigned the responsibility of explaining the agreement. This will assure that there are no contradictions in interpretation or direction.

CHAPTER 4

Dispute Resolution

A. Impasse Procedures

When, during the course of bargaining, either party determines that a stalemate has been reached on an issue, an impasse may be declared. The Educational Employment Relations Act provides several alternative actions that can be used at that time. The Public Employment Relations Commission may be requested to appoint a mediator for the purpose of assisting the parties in reconciling their differences and resolving the controversy on terms that are acceptable to both. The mediator will meet with the parties, either separately or jointly, and use any appropriate means to persuade them to resolve their differences. The mediator is not allowed, without the consent of both parties, to make findings of fact or to recommend terms of settlement. Any costs for the mediation are paid by the commission.

An alternative to the above course is also provided in the statute. The parties may mutually agree upon a mediator who may function without direction from the commission.

In the event that the mediator, either commission appointed or designated by the parties, is unable to bring about settlement of the dispute, either party may notify the other of its intention to request fact-finding. The parties then are required to attempt to mutually agree on an individual and obtain a commitment from that person to serve. If they are unable to do this, either party may request the commission to name a fact-finder.

The fact-finder is given broad powers to meet with the parties; to make inquiries and investigations; and to issue subpoenas requiring attendance, presentation of testimony, and production of evidence. If settlement is still not reached, the fact-finder must make findings of fact and recommend terms of agreement. These reports are advisory only and are not binding on either party.

If there is no settlement, the fact-finder, the commission or either party may make the reported findings and recommendations public. Again, all expenses associated with a commission named fact-finder are paid by the commission.

Nothing in the law prevents the parties from mutually agreeing upon their own procedure, at their own expense, to resolve the dispute. This may include requests for assistance from other governmental agencies or individuals in place of the commission.

B. Grievance Procedure

Any time two or more people are involved in any kind of a relationship, the probability of a dispute exists. The manner in which that dispute is resolved may have long lasting effects on that relationship.

Parents, pupils, teachers, administrators and school board members are all closely involved in the schools, and disputes between any of these groups are to be expected. However, it is the dispute between the teachers and the school board in matters involving their contractual relationship which is of concern in the area of collective bargaining.

An effective tool in resolving such disputes is the grievance procedure. Such a procedure, outlined in the ratified agreement, should be comprehensive enough to allow resolution of some problems on a low key, informal basis. For more complicated disagreements, the procedure must provide for appropriate review and timely handling through the progressive steps of management to ultimate resolution.

Resolution of a difference of opinion is the purpose of the entire grievance procedure. Various methods of resolving differences can be used:

1. Unappealable board action. In this method, the school board hears the grievance and the arguments of both sides. Its decision is final and binding. The only appeal possible is to the civil courts.

2. Fact-finding. An individual is appointed to hear the dispute and to write a report detailing the facts and a recommended solution. The report is not binding on either party and normally is not released to the public by either party or by the fact-finder.

3. Advisory arbitration. This method is becoming increasingly popular. It is similar to fact-finding in that the report is not binding on either party. The significant difference is that if, after a designated time, the report is not used as a basis for resolution, it may be made public by any of the parties involved, singly or collectively.

4. Binding arbitration. This method of dispute resolution provides that the decision of the arbitrator must be adopted and implemented. Obviously, the power of an arbitrator can be great. Therefore, strict rules governing the matters with which such a person may deal and limits on that person's scope of actions must be well defined.

The passage of legislation authorizing the use of binding arbitration as the last resort in grievance resolution has opened up a new challenge to school board authority. To what extent can the arbitrator be allowed to intrude into the area of management responsibility for business and fiscal matters? This is the primary question which must be considered when including a contractual provision for binding arbitration as a step in the grievance procedure.

The contractual definition of a grievance should limit complaints to the interpretation and/or application of the terms of the agreement itself. This is a first protection against the possibility of inappropriate arbitration decisions. Second is the careful definition of the powers and scope of the arbitrator. As experience is gained with the use of the arbitration procedure, other safeguards will develop which will insure this process as a useful tool for dispute resolution.

CHAPTER 5

School Strikes

Strikes have been defined as "a cessation of work as a means of enforcing compliance with some demand upon the employer."

The Supreme Court of Washington State has decided that a strike by public employees is unlawful in the absence of specific legislative authorization. (Port of Seattle v. International Longshoremen and Warehousemen's Union, 52 Wash. (2nd) 317, 1958). This decision has been referred to in subsequent Superior Court decisions. Nevertheless, strikes, mass sick calls, and other work stoppages by school employees have occurred in this state and may be expected to occur again.

In order to cope with a work stoppage, it is important for the school board and administrative team to have solid unanimity of purpose and direction from the beginning. Boards must keep cool and not allow the pressure of the strike to erode that solidarity.

The following list of suggestions will help board members and their chief administrators develop an action plan before a strike occurs.

Procedural Correctness

It is important that the school board retain and consult with expert legal counsel before implementing any plan for coping with a work stoppage.

Planning Committee

Organize a planning committee to determine, well in advance of the event, who will do what and when if a work stoppage occurs. Members of the school board and administrative staff should be included on this committee. Keep the size of the group to a workable number. Principals should have a key role in the overall planning, and tentative plans should be checked with legal counsel. The final plan should be discussed with the top level management team but given very limited distribution.

Continuation of Negotiations

Plans for coping with a work stoppage may have to be made while negotiations are in progress. However, the parties should continue to strive in good faith to negotiate a settlement. It is extremely rare for either of the principals involved in a strike to win anything substantial.

During negotiations be sure you are both fair and thoughtful. Try to see the situation from the teachers' view, then try to remedy or alleviate strike motivation.

While there may be periods of frustration and futility during the period preceding a work stoppage, it is most important that the parties keep talking. Keep the door open on negotiations.

Even if a strike occurs, it will be important for the parties to keep their lines of communication open. Strikes will only be settled by further discussion, and efforts should be made to resume talks as soon as both sides are willing to meet. However, when a strike occurs, tensions and emotions may initially impede effective communications — a short cooling off period may be required before communications can be re-established.

List of Key Officials

Make a list of all of the people who may be helpful in resolving the dispute. This should include elected officials such as the mayor, legislative representatives, directors of public works, city attorney, councilmen and the state superintendent of public instruction. Anyone who is in a position to assist in settling the dispute should be considered, including perhaps local union officials.

Operating During a Strike

If a strike occurs, you will need to decide first whether to attempt to operate during the strike period. For practical reasons, the following questions should be discussed and answered well ahead of a strike if the district wants to keep the schools open.

1. Is our community highly unionized?
2. Will the PTSA support the board or the teachers?
3. How good is our overall public relations?
4. Will a sufficient number of teachers and non-instructional employees be willing to cross the picket line to allow the district to maintain a schedule of classes for students?

If the school board decides to keep schools open during the strike, the following matters will need to be considered:

—What percentage of employees would be necessary to operate a minimum educational program and to maintain the health and safety of students? (WAC 392-13, See Appendix D)

—Maintain as near to a normal operation as possible but use administrators, former teachers, substitutes and teacher aides for staff. Prepare a list in advance.

—If your board does not have a policy defining the position of the principal in relation to the administrative team it would be a good idea to adopt one.

—Are all employees properly qualified and certificated? Confer in advance with the State Superintendent's office.

—Pool substitute lists with other districts. Determine what has to be done to qualify for emergency credentials.

—Confer with the State Superintendent's office regarding the district's eligibility to continue to receive state aids for the period during which employees are on strike. (See the State Board of Education's rules on this which are Appendix D.)

—Consult with legal counsel. This is extremely important. The board will want to avoid being accused of a prohibitive practice charge as the result of hiring temporary help during a strike.

—The school day for apportionment purposes is defined as "each day of the school year on which pupils enrolled in the common schools of a school district are engaged in educational activity planned by and under the direction of the school district staff, as directed by the administration and board of directors of the district." RCW 28A.01.010

—Check with other schools which have experienced employee work stoppages to learn about their experiences, problems and solutions to problems.

—Call the WSSDA service office for information relative to other school districts which have experienced labor disputes.

—Consider announcing a "no work—no pay" policy.

—Establish procedures to identify those employees who work during the strike and those who are absent. Keep a daily record.

—In situations where new professional employees may be hired, be alert to continuing contract law complications. Hire them as substitutes.

—Contacts should be made in advance with placement offices for clarification of their placement policies.

If you decide that it will not be possible to continue the school program during a work stoppage, it will be necessary to determine how long you will be able to maintain this posture, when and if missed days will be made up, and the dimensions of the program once the work stoppage is concluded. Remember that those employees who do not favor a strike can bring pressure on their association if schools are closed.

Job Assignments, Orientation and Training

It will be necessary to develop a complete program of orientation and in-service training for non-striking employees. A member of the administrative team should be assigned the responsibility of developing an orientation and training program for those employees who will be working during the strike. This may include the preparation of a statement of specific operational procedures and job responsibilities for each staff person. Principals will have a key responsibility for maintaining orderly operations within their buildings. A complete outline of work to be done should be prepared well in advance of the strike deadline. Some of the activities may be new for the employees, so make certain the job statements are comprehensive and specific. Establish ground rules so that everybody knows his or her job and what things are to be done each day. Thorough communications among the board members, administrators and principals is the key to success.

If other unionized school employees support the employee organization which is on strike, you should explore with legal counsel the steps which can be taken to restrict the activities of the organized non-striking employees. Using care is necessary because, if pressure is brought to get them to cross a picket line, an unfair labor practice charge might be made.

Legal Action

You should check with legal counsel to review carefully the ramifications of any action you undertake. The following legal actions are possible:

—Enjoin teachers from preventing aides, substitutes and noncertificated personnel from performing their duties.

—Declare that the teaching contracts of those employees on strike are without force and effect by reason of the teachers' refusal to perform their duties.

—Consider sending notices of non-renewal of employment by reason of breach of contract.

—Determine the feasibility of obtaining an injunction against the striking organization.

—Sue strike leadership for any breach of law or court order.

Continuation of Benefits

Decide whether to continue paying for insurance, tax sheltered annuities and other fringe benefits for striking employees. This decision should be announced to the striking employees as soon as possible so that they may continue the benefits on an individual basis.

Property and Liability Insurance

Check with your insurance underwriters to determine whether damage to buildings or people is covered during a strike situation. This is one arrangement that should be checked into immediately even though you are not faced with a labor dispute.

Communications, Mail, Public Relations

1. Who will be responsible for the mail services? Ordinarily, the post office will not cross the picket line to deliver mail. Arrangements will have to be made to pick it up.
2. Teachers, parents and students should be notified of the policy on the school closing or remaining open and other pertinent information. Also, inform them that as conditions change, there may be a change in policy in the operation of the schools. You might want to make use of the telephone tree in communicating this type of information to them. This telephone tree works like a chain letter. Use should also be made of local newspapers, radio and television.
3. Develop in advance an informational plan for communicating facts to the public.
4. Organize both an effective **internal** communications system and an **external** rumor center with a publicized telephone number. You may also want to establish an administrative "command post" with an unlisted number.
5. Issue "no comment" releases until the board has met with and been advised by legal counsel and deliberated carefully.
6. Issue information sheets concerning the true facts about the situation so as to keep teachers, board members and public informed.
7. Maintain a "Strike Facts Center" at a repeatedly published telephone number.
8. Confer and work closely with the principals' organizations.
9. Make certain that the community and members of the bargaining unit know how negotiations stand at the present time. The public has a right to know if a strike is about to develop and what the issues are.
10. Make arrangements for quick contact with board members by telephone at either their business or place of residence. You may want to contact board members at any time of the day or night.
11. Fix responsibility for maintaining radio, newspaper, and

telephone communications. Establish an information center where press releases and radio and television reports may be prepared. Be sure to have all releases reviewed by the administrator before any information is given out.

Documenutation

Document events occurring on the picket line and in other areas. Have the staff and others on the payroll notify you of any incidents which may occur. Be sure to record everything by date, hour, and minute. In taking pictures of incidents, be sure to record both the pro and con aspects. Consult with your attorney regarding the documentation of events and the taking of pictures. It should be remembered that, although picture taking under some circumstances may deter mob action, it can also have the opposite effect.

Athletic, Dramatic and Other Programs

Check with the Washington Interscholastic Athletic Association to determine requirements for continuation of your programs. There is a definite policy on this. Notify the conference members that you have a labor dispute which may require some change and delay in the athletic schedule. A policy should be worked out in advance with conference schools. What about other scheduled programs? Plays, concerts, and this sort of thing? Are you going to cancel and reschedule these programs?

Return to Work Policy

Plan what you are going to do when the strike is over. Should there be any penalties against the striking employees? How will the return to work be handled without incident?

During and after the strike, there may be attempts to lower the morale of the board, administrative staff, and the teachers who report for work.

Restoring communication channels and removing "irritants" that contributed to earlier bad feelings may be the first step toward the peaceful adjustment of the issues.

Reassignment of Staff

If you have hired new teachers during the strike, there may have to be some reassignment of duties. Do this objectively without showing favoritism.

Picketing

If a strike occurs, the odds are that picketing will also take place. Picketing consists of posting members of the union at the approaches to a school building to observe and report the employees coming from or going to work.

Picketing becomes unlawful when the information given is not truthful or constitutes a misrepresentation of the facts. In addition, unlawful picketing involves using force or violence to persuade or prevent employees from continuing to work.

If a board member's place of business is picketed, this in effect is a secondary boycott which is considered illegal under the National

Labor Relations Act. On such occasions, your attorney should immediately be contacted.

Violence

If violence takes place during a strike, you should alert the police immediately.

APPENDIX A

Educational Employment Relations Act

Chapter 41.59

41.59.010 Purpose. It is the purpose of this chapter to prescribe certain rights and obligations of the educational employees of the school districts of the state of Washington, and to establish procedures governing the relationship between such employees and their employers which are designed to meet the special requirements and needs of public employment in education. [1975 1st ex.s. c 288 § 2.]

41.59.020 Definitions. As used in this chapter:

(1) The term "employee organization" means any organization, union, association, agency, committee, council, or group of any kind in which employees participate, and which exists for the purpose, in whole or in part, of collective bargaining with employers.

(2) The term "collective bargaining" or "bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times in light of the time limitations of the budget-making process, and to bargain in good faith in an effort to reach agreement with respect to the wages, hours, and terms and conditions of employment: *Provided*, That prior law, practice or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which item(s) are mandatory subjects for bargaining and which item(s) are nonmandatory.

(3) The term "commission" means *the education employment relations commission established by section 4 of this 1975 act: *Provided*, That if the legislature creates another board, commission, or division of a state agency comprehensively assuming administrative responsibilities for labor relations or collective bargaining in the public sector, "commission" for the purposes of **this chapter shall mean such board, commission, or division as therein created.

(4) The terms "employee" and "educational employee" means any certificated employee of a school district, except:

(a) The chief executive officer of the employer.

(b) The chief administrative officers of the employer, which shall mean the superintendent of the district, deputy superintendents, administrative assistants to the superintendent, assistant superintendents, and business manager. Title variation from all positions enumerated in this subsection (b) may be appealed to the commission for determination of inclusion in, or exclusion from, the term "educational employee".

(c) Confidential employees, which shall mean:

(i) Any person who participates directly on behalf of an employer in the formulation of labor relations policy, the preparation for or conduct of collective bargaining, or the administration of collective bargaining agreements, except that the role of such person is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; and

(ii) Any person who assists and acts in a confidential capacity to such person.

(d) Unless included within a bargaining unit pursuant to RCW 41.59.080, any supervisor, which means any employee having authority, in the interest of an employer, to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to recommend effectively such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment, and shall not include any persons solely by reason of their membership on a faculty tenure or other governance committee or body. The term "supervisor" shall include only those employees who perform a preponderance of the above-specified acts of authority.

(e) Unless included within a bargaining unit pursuant to RCW 41.59.080, principals and assistant principals in school districts.

(5) The term "employer" means any school district.

(6) The term "exclusive bargaining representative" means any employee organization which has:

(a) Been selected or designated pursuant to the provisions of this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Prior to January 1, 1976, been recognized under a predecessor statute as the representative of the employees in an appropriate collective bargaining or negotiations unit.

(7) The term "person" means one or more individuals, organizations, unions, associations, partnerships, corporations, boards, committees, commissions, agencies, or other entities, or their representatives.

(8) The term "nonsupervisory employee" means all educational employees other than principals, assistant principals and supervisors. [1975 1st ex.s. c 288 § 3.]

Reviser's note: *(1) Phrase "the education employment relations commission established by section 4 of this 1975 act", see note following chapter digest.

**(2) Session law [1975 1st ex.s. c 288 § 3] language here reads "this 1975 amendatory act"; in addition to sections codified in this chapter, said act included section 4 thereof, vetoed by the governor, amendments to RCW 28A.01.130 and 28A.67.065, and the repeal of chapter 28A.72 RCW.

41.59.040 Commission, expenses of, employees, and payments to members——Executive director, appointment and duties. (1) Each member of the commission shall be paid fifty dollars for each day during which the member has actually attended a meeting of the commission officially held, or in attending to such other business of the commission as may be authorized thereby. There shall be no limitation on the number of such daily payments that the members of the commission may receive for official meetings of the commission actually attended. Members of the commission shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally in chapter 43.03 RCW.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028, and who shall perform such duties and have such powers as the commission shall prescribe in order to carry out the provisions of this chapter. The executive director, unless otherwise provided in *this chapter, shall have authority to act on behalf of the commission in matters concerning the administration of this chapter and shall perform such administrative duties as prescribed by the commission, with such assistance as may be provided by the attorney general and such additional legal assistance not inconsistent with chapter 43.10 RCW.

(3) When necessary to carry out or enforce any action or decision of the commission, the executive director shall have authority to petition any court of competent jurisdiction for an order requiring compliance with commission action or decision.

(4) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties consistent with the provisions of this chapter and such rules and regulations promulgated thereunder.

(5) All of the expenses of the commission, including all necessary traveling and subsistence expenses outside the city of Olympia incurred by the members or employees of the commission, and under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission or by any individual it designates for that purpose. [1975 1st ex.s. c 288 § 5.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 5] language here reads "this 1975 act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

Compensation and expenses of members——Executive director——Employees: RCW 41.58.015.

41.59.050 Commission, principal office of. The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state of Washington. [1975 1st ex.s. c 288 § 6.]

Office: RCW 41.58.030.

41.59.060 Employee rights enumerated——Fees and dues, deduction from pay. (1) Employees shall have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and shall also have the right to refrain from any or all of such activities except to the extent that employees may be required to pay a fee to any employee organization under an agency shop agreement authorized in this chapter.

(2) The exclusive bargaining representative shall have the right to have deducted from the salary of employees, upon receipt of an appropriate authorization form which shall not be irrevocable for a period of more than one year, an amount equal to the fees and dues required for membership. Such fees and dues shall be deducted monthly from the pay of all appropriate employees by the employer and transmitted as provided for by agreement between the employer and the exclusive bargaining representative, unless an automatic payroll deduction service is established pursuant to law, at which time such fees and dues shall be transmitted as therein provided. If an agency shop provision is agreed to and becomes effective pursuant to RCW 41.59.100, except as provided in that section, the agency fee equal to the fees and dues required of membership in the exclusive bargaining representative shall be deducted from the salary of employees in the bargaining unit. [1975 1st ex.s. c 288 § 7.]

41.59.070 Election to ascertain exclusive bargaining representative, when——Run-off election——Decertification election. (1) Any employee organization may file a request with the commission for recognition as the exclusive representative. Such request shall allege that a majority of the employees in an appropriate collective bargaining unit wish to be represented for the purpose of collective bargaining by such organization, shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate, shall be supported by credible evidence demonstrating that at least thirty percent of the employees in the appropriate unit desire the organization requesting recognition as their exclusive representative, and shall indicate the name, address, and telephone number of any other interested employee organization, if known to the requesting organization.

(2) The commission shall determine the exclusive representative by conducting an election by secret ballot, except under the following circumstances:

(a) In instances where a serious unfair labor practice has been committed which interfered with the election process and precluded the holding of a fair election, the commission shall determine the exclusive bargaining representative by an examination of organization membership rolls or a comparison of signatures on organization bargaining authorization cards.

(b) In instances where there is then in effect a lawful written collective bargaining agreement between the employer and another employee organization covering any employees included in the unit described in the request for recognition, the request for recognition shall not be entertained unless it shall be filed within the time limits prescribed in subsection (3) of this section for decertification or a new recognition election.

(c) In instances where within the previous twelve months another employee organization has been lawfully recognized or certified as the exclusive bargaining representative of any employees included in the unit described in the request for recognition, the request for recognition shall not be entertained.

(d) In instances where the commission has within the previous twelve months conducted a secret ballot election involving any employees included in the unit described in the request for recognition in which a majority of the valid ballots cast chose not to be represented by any employee organization, the request for recognition shall not be entertained.

(3) Whenever the commission conducts an election to ascertain the exclusive bargaining representative, the ballot shall contain the name of the proposed bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the educational employees within the unit, together with a choice for any educational employee to designate that he or she does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority of the valid ballots cast by the educational employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which receive the largest and second largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. In the event that a valid collective bargaining agreement, together with any renewals or extensions thereof, has been or will be in existence for three years, then the question of representation may be raised not more than ninety nor less than sixty days prior to the third anniversary date of the agreement or any renewals or extensions thereof as long as such renewals and extensions do not exceed three years; and if the exclusive bargaining representative is removed as a result of such procedure, the then existing collective bargaining agreement shall be terminable by the new exclusive bargaining representative so selected within sixty days after its certification or terminated on its expiration date, whichever is sooner, or if no exclusive bargaining representative is so selected, then the agreement shall be deemed to be terminated at its expiration date or as of such third anniversary date, whichever is sooner.

(4) Within the time limits prescribed in subsection (3) of this section, a petition may be filed signed by at least thirty percent of the employees of a collective bargaining unit, then represented by an exclusive bargaining representative, alleging that a majority of the employees in that unit do not wish to be represented by an employee organization, requesting that the exclusive bargaining representative be decertified, and indicating the name, address and telephone number of the exclusive bargaining representative and any other interested employee organization, if known. Upon the verification of the signatures on the petition, the commission shall conduct an election by secret ballot as prescribed by subsection (3) of this section. [1975 1st ex.s. c 288 § 8.]

41.59.080 Determination of bargaining unit—— Standards. The commission, upon proper application for certification as an exclusive bargaining representative or upon petition for change of unit definition by the employer or any employee organization within the time limits specified in RCW 41.59.070(3), and after hearing upon reasonable notice, shall determine the unit appropriate for the purpose of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the educational employees; the history of collective bargaining; the extent of organization among the educational employees; and the desire of the educational employees; except that:

(1) A unit including nonsupervisory educational employees shall not be considered appropriate unless it includes all such nonsupervisory educational employees of the employer; and

(2) A unit that includes only supervisors may be considered appropriate if a majority of the employees in such category indicate by vote that they desire to be included in such a unit; and

(3) A unit that includes only principals and assistant principals may be considered appropriate if a majority of such employees indicate by vote that they desire to be included in such a unit; and

(4) A unit that includes both principals and assistant principals and other supervisory employees may be

considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(5) A unit that includes supervisors and/or principals and assistant principals and nonsupervisory educational employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(6) A unit that includes only employees in vocational-technical institutes or occupational skill centers may be considered to constitute an appropriate bargaining unit if the history of bargaining in any such school district so justifies; and

(7) Notwithstanding the definition of collective bargaining, a unit that contains only supervisors and/or principals and assistant principals shall be limited in scope of bargaining to compensation, hours of work, and the number of days of work in the annual employment contracts. [1975 1st ex.s. c 288 § 9.]

41.59.090 Certification of exclusive bargaining representative——Scope of representation. The employee organization which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent all the employees within the unit without regard to membership in that bargaining representative: *Provided*, That any employee at any time may present his grievance to the employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, as long as such representative has been given an opportunity to be present at that adjustment and to make its views known, and as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect. [1975 1st ex.s. c 288 § 10.]

41.59.100 Union security provisions——Scope——Agency shop provision, collection of dues or fees. A collective bargaining agreement may include union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. All union security provisions must safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. [1975 1st ex.s. c 288 § 11.]

41.59.110 Commission, rules and regulations of——Federal precedents as standard. (1) The commission shall promulgate, revise, or rescind, in the manner prescribed by the administrative procedure act, chapter 34.04 RCW, such rules and regulations as it may deem necessary and appropriate to administer the provisions of this chapter, in conformity with the intent and purpose of this chapter, and consistent with the best standards of labor-management relations.

(2) The rules, precedents, and practices of the national labor relations board, provided they are consistent with this chapter, shall be considered by the commission in its interpretation of this chapter, and prior to adoption of any aforesaid commission rules and regulations. [1975 1st ex.s. c 288 § 12.]

41.59.120 Resolving impasses in collective bargaining——Mediation——Fact-finding with recommendations——Other. (1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact-finder and obtain a commitment from that person to serve. If they

are unable to agree upon a fact-finder or to obtain such a commitment within that time, either party may request the commission to designate a fact-finder. The commission, within five days after receipt of such request, shall designate a fact-finder in accordance with rules and regulations for such designation prescribed by the commission. The fact-finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact-finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact-finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact-finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact-finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact-finder.

(4) The costs for the services of the fact-finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact-finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state. [1975 1st ex.s. c 288 § 13.]

41.59.130 Binding arbitration procedures authorized. An employer and an exclusive bargaining representative who enter into a collective bargaining agreement may include in such agreement procedures for binding arbitration of such disputes as may arise involving the interpretation or application of such agreement. [1975 1st ex.s. c 288 § 14.]

41.59.140 Unfair labor practices for employer, employee organization, enumerated. (1) It shall be an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in RCW 41.59.060.

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: *Provided*, That subject to rules and regulations made by the commission pursuant to RCW 41.59.110, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment or any term or condition of employment, but nothing contained in this subsection shall prevent an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 41.59.100;

(d) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under *this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It shall be an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed in RCW 41.59.060: *Provided*, That this paragraph shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (ii) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer, provided it is the representative of its employees subject to RCW 41.59.090.

(3) The expressing of any views, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of *this chapter, if such expression contains no threat of reprisal or force or promise of benefit. [1975 1st ex.s. c 288 § 15.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 15] language here reads "this act" or "this 1975 act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

41.59.150 Commission to prevent unfair labor practices——Scope. (1) The commission is empowered to prevent any person from engaging in any unfair labor practice as defined in RCW 41.59.140. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, equity or otherwise.

(2) If the commission determines that any person has engaged in or is engaging in any such unfair labor practices as defined in RCW 41.59.140, then the commission shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and/or the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or wherein the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief. [1975 1st ex.s. c 288 § 16.]

41.59.160 Applicability of administrative procedure act provisions to commission action. Actions taken by or on behalf of the commission shall be pursuant to chapter 34.04 RCW, or rules and regulations adopted in accordance therewith, and the right of judicial review provided by chapter 34.04 RCW shall be applicable to all such actions and rules and regulations. [1975 1st ex.s. c 288 § 17.]

41.59.170 Effective date of certain agreements——Increased benefits during agreement authorized, when. (1) Whenever a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and an employee organization representing the same employees, the effective date of such collective bargaining agreement may be the day after the termination date of the previous collective bargaining agreement and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with such effective date as established by this subsection, and may also accrue beginning with the effective date of any individual employee contracts affected thereby.

(2) Any collective bargaining agreement may provide for the increase of any wages, salaries and other benefits during the term of such agreement or the term of any individual employee contracts concerned, in the event that the employer receives by increased appropriation or from other sources, additional moneys for such purposes. [1975 1st ex.s. c 288 § 18.]

41.59.180 Employees in specialized job category may be excluded, when. Notwithstanding the definition of "employee" in RCW 41.59.020, the commission may exclude from the coverage of *this chapter any specialized job category of an employer where a majority of the persons employed in that job category consists of noncertificated employees. At such time as a majority of such employees are certificated, the job category may be considered an appropriate unit under *this chapter. [1975 1st ex.s. c 288 § 23.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 23] language here reads "this 1975 amendatory act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

41.59.900 Short title. This chapter may be cited as the educational employment relations act. [1975 1st ex.s. c 288 § 1.]

41.59.910 Construction of chapter——Effect on existing agreements——Collective bargaining agreement prevails where conflict. This chapter shall supersede existing statutes not expressly repealed to the extent that there is a conflict between a provision of this chapter and those other statutes. Except as otherwise expressly provided herein, nothing in this chapter shall be construed to annul, modify or preclude the renewal or continuation of any lawful agreement entered into prior to January 1, 1976 between an employer and an employee organization covering wages, hours, and terms and conditions of employment. Where there is a conflict between any collective bargaining agreement and any resolution, rule, policy or regulation of the employer or its agents, the terms of the collective bargaining agreement shall prevail. [1975 1st ex.s. c 288 § 19.]

41.59.920 Construction of chapter——Employee's rights preserved. Except as otherwise expressly provided herein, nothing contained in *this chapter shall be construed to deny or otherwise abridge any rights, privileges or benefits granted by law to employees. [1975 1st ex.s. c 288 § 20.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 20] language here reads "this 1975 act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

41.59.930 Construction of chapter——Employer's responsibilities and rights preserved. Nothing in *this chapter shall be construed to interfere with the responsibilities and rights of the employer as specified by federal and state law, including the employer's responsibilities to students, the public, and other constituent elements of the institution. [1975 1st ex.s. c 288 § 24.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 24] language here reads "this act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

41.59.940 Effective date——1975 1st ex.s. c 288. Except for RCW 41.59.040, 41.59.050, 41.59.110 and 41.59.160 which shall take effect ninety days following enactment hereof, this chapter and RCW 28A.01.130 and 28A.67.065 as amended by chapter 288, Laws of 1975 1st ex. sess. shall take effect on January 1, 1976. Where the term "effective date of this chapter" is used elsewhere in this chapter it shall mean January 1, 1976. [1975 1st ex.s. c 288 § 26.]

Reviser's note: Engrossed Substitute Senate Bill No. 2500 which is chapter 288, Laws of 1975 1st ex. sess., was passed by the Senate May 28, 1975, passed by the House June 2, 1975 and approved by the governor July 2, 1975, with the exception of section 4 thereof, vetoed by the governor; it includes the repeal of chapter 28A.72 RCW in section 28 thereof.

41.59.950 Severability——1975 1st ex.s. c 288. If any provision of *this chapter, or its application to any person or circumstance is held invalid, the remainder of *the chapter, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 288 § 25.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 25] language here reads "this 1975 act" or "the act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

Chapter 41.58

41.58.005 Intent——Construction. (1) It is the intent of the legislature by the adoption of *this 1975 amendatory act to provide, in the area of public employment, for the more uniform and impartial (a) adjustment and settlement of complaints, grievances, and disputes arising out of employer-employee relations and, (b) selection and certification of bargaining representatives by transferring jurisdiction of such matters to the public employment relations commission from other boards and commissions. It is further the intent of the legislature, by such transfer, to achieve more efficient and expert administration of public labor relations administration and to thereby ensure the public of quality public services.

(2) Nothing contained in *this 1975 amendatory act shall be construed to alter any existing collective bargaining unit or the provisions of any existing bargaining agreement.

(3) Nothing contained in *this 1975 amendatory act shall be construed to alter any power or authority regarding the scope of collective bargaining in the employment areas affected by *this 1975 amendatory act, but *this amendatory act shall be construed as transferring existing jurisdiction and authority to the public employment relations commission.

(4) Nothing contained in *this 1975 amendatory act shall be construed to prohibit the consideration or adjustment of complaints or grievances by the public employer. [1975 1st ex.s. c 296 § 1.]

***Reviser's note:** "this 1975 amendatory act" or "this amendatory act" [1975 1st ex.s. c 296] consists of chapter 41.58 RCW, amendments to RCW 28A.72.020, 28A.72.060, 28A.72.080, 28A.72.100, 28B.52.020, 28B.52.060, 28B.52.080, 41.56.030, 41.56.050, 41.56.060, 41.56.070, 41.56.080, 41.56.090, 41.56.100, 41.56.122, 41.56.125, 41.56.160, 41.56.170, 41.56.180, 41.56.190, 41.56.440, 41.56.450, 41.56.480, 43.22.260, 43.22.270, 47.64.010, 47.64.030, 47.64.040, 49.08.010, 49.08.020, 53.18.030, to the repeal of RCW 47.64.020, and to additions to chapter 41.58 RCW by 1975 2nd ex.s. c 5. RCW 28A.72.020, 28A.72.060, 28A.72.080 and 28A.72.100 were repealed by 1975 2nd ex.s. c 5 § 7.

41.58.010 Public employment relations commission——Created——Membership——Terms——Vacancies——Quorum——Report. (1) There is hereby created the public employment relations commission (hereafter called the "commission") to administer the provisions of this chapter. The commission shall consist of three members who shall be citizens appointed by the governor by and with the advice and consent of the senate: *Provided*, That no member appointed when the legislature was not in session shall continue to be a member of the commission if that person's appointment shall have been rejected by the senate during the next legislative session. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members shall be eligible for reappointment. The governor shall designate one member to serve as chairman of the commission. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members shall not be eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission.

(2) In making citizen member appointments initially, and subsequently thereafter, the governor shall be cognizant of the desirability of appointing persons knowledgeable in the area of labor relations in the state.

(3) A vacancy in the commission shall not impair the right of the remaining members to exercise all of the powers of the commission, and two members of the commission shall, at all times, constitute a quorum of the commission.

(4) The commission shall at the close of each fiscal year make a report in writing to the legislature and to the governor stating the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the commission, and an account of all moneys it has disbursed. [1975 2nd ex.s. c 5 § 1.]

41.58.015 Compensation and expenses of members——Executive director——Employees. (1) Each member of the commission shall be paid fifty dollars for each day in which he has actually attended a meeting of the commission officially held. The members of the commission may receive any number of daily payments for official meetings of the commission actually attended. Members of the commission shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally in chapter 43.03 RCW.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. He shall perform such duties and have such powers as the commission shall prescribe in order to carry out the provisions of this chapter, including assisting employees and employers in the settlement of labor disputes through mediation and fact-finding. The executive director, with such assist-

ance as may be provided by the attorney general and such additional legal assistance consistent with chapter 43.10 RCW, shall have authority on behalf of the commission, in matters concerning the investigation of charges and issuance of complaints under this chapter.

(3) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties, consistent with the provisions of this chapter.

(4) The payment of all of the expenses of the commission, including all necessary traveling and subsistence expenses outside the city of Olympia incurred by the members or employees of the commission under its orders, shall be subject to the presentation of itemized vouchers therefor approved by the commission or by any individual it designates for that purpose and to the applicable provisions of chapter 43.03 RCW and the regulations promulgated thereunder. [1975 2nd ex.s. c 5 § 2.]

41.58.020 Powers and duties of commission. (1) It shall be the duty of the commission, in order to prevent or minimize interruptions growing out of labor disputes, to assist employers and employees to settle such disputes through mediation and fact-finding.

(2) The commission, through the director, may proffer its services in any labor dispute involving a political subdivision, municipal corporation, or the community college system of the state, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial disruption to the public welfare.

(3) If the director is not able to bring the parties to agreement by mediation within a reasonable time, he shall seek to induce the parties to voluntarily seek other means of settling the dispute without resort to strike or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the director shall not be deemed a violation of any duty or obligation imposed by this chapter.

(4) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement. The commission is directed to make its mediation and fact-finding services available in the settlement of such grievance disputes only as a last resort. [1975 1st ex.s. c 296 § 4.]

41.58.030 Office. The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state. [1975 1st ex.s. c 296 § 5.]

41.58.040 Duties of employers and employees. In order to prevent or minimize disruptions to the public welfare growing out of labor disputes, employers and employees and their representatives shall:

(1) Exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) Whenever a dispute arises over the terms or application of a collective bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) In case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the commission under this chapter for the purpose of aiding in a settlement of the dispute. [1975 1st ex.s. c 296 § 6.]

41.58.050 Rules and regulations. The board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the administrative procedure act, chapter 34.04 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter. [1975 1st ex.s. c 296 § 7.]

41.58.800 Transfer of employees to commission. All employees of the department of labor and industries classified under the provisions of chapter 41.06 RCW, the state civil service law, whose positions are entirely concerned with functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall be transferred to the jurisdiction of the commission. [1975 2nd ex.s. c 5 § 3.]

41.58.801 Transfer of reports, documents, records, property, etc., funds, appropriations, etc. All reports, documents, surveys, books, records, files, papers, or other writings in the possession of the marine employee commission, the office of the superintendent of public instruction, the state board for community college education, and the department of labor and industries and pertaining to the functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be delivered to the custody of the commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the functions transferred by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be transferred to the commission.

Any appropriation or portion thereof remaining as of January 1, 1976, and which is made to an agency for the purpose of carrying out functions transferred from such agency pursuant to chapter 296, Laws of 1975 1st ex. sess., shall, by January 1, 1976, be transferred and credited to the commission for the purpose of carrying out such functions. This paragraph shall not affect the transfer of moneys prior to January 1, 1976, pursuant to section 67, chapter 169 [269], Laws of 1975 1st ex. sess.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the performance of the functions transferred under chapter 296, Laws of 1975 1st ex. sess., the director of program planning and fiscal management or his successor shall make a determination as to the proper allocation and certify the same to the state agencies concerned. [1975 2nd ex.s. c 5 § 4.]

41.58.802 Procedure for transfer of budgeted fund or equipment. Where transfers of budgeted funds or equipment are required under *this act, the director of program planning and fiscal management shall certify such transfers to the agencies affected, the state auditor and the state treasurer all of whom shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1975 2nd ex.s. c 5 § 5.]

***Reviser's note:** "this act" [1975 2nd ex.s. c 5], see note following RCW 41.58.005.

41.58.803 Continuation and savings. On January 1, 1976, all rules and regulations, and all business pending before the agencies or divisions thereof from whom functions are transferred pursuant to chapter 296, Laws of 1975 1st ex. sess. and which pertain to such functions shall be continued and acted upon by the commission. All existing contracts and obligations pertaining to such functions shall remain in full force and effect, but shall be performed by the commission in lieu of the agency from whom the functions are transferred. The transfer of any functions shall not affect the validity of any act performed by such agency or division thereof or any officer or employee thereof prior to the effective date of the transferral of such functions.

Notwithstanding any other provisions of *this act, contracts or agreements are authorized between the commission and other agencies with respect to functions transferred from other agencies pursuant to chapter 296, Laws of 1975 1st ex. sess. Such contract or agreement may provide for an employee or employees of such other agencies or other person or persons to continue to provide services relating to pending business which is transferred to the commission as of January 1, 1976, until such pending business is completed. [1975 2nd ex.s. c 5 § 6.]

***Reviser's note:** "this act" [1975 2nd ex.s. c 5], see note following RCW 41.58.005.

41.58.900 Effective dates——1975 2nd ex.s. c 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on September 8, 1975, except for the provisions of sections 6 and 7 which shall be effective on January 1, 1976. [1975 2nd ex.s. c 5 § 9.]

41.58.901 Effective date——1975 1st ex.s. c 296 §§ 4, 6, and 8 through 39. Sections 4, 6, and 8 through 39 of chapter 296, Laws of 1975 1st ex. sess. shall not be effective until January 1, 1976. [1975 2nd ex.s. c 5 § 8.]

APPENDIX B

Public Employees Collective Bargaining

Chapter 41.56

41.56.010 Declaration of purpose. The intent and purpose of this chapter is to promote the continued improvement of the relationship between public employers and their employees by providing a uniform basis for implementing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in matters concerning their employment relations with public employers. [1967 ex.s. c 108 § 1.]

41.56.020 Application of chapter. This chapter shall apply to any county or municipal corporation, or any political subdivision of the state of Washington except as otherwise provided by RCW 47.64.030, 47.64.040, 54.04.170, 54.04.180, *28.72.010 through 28.72.090, and chapter 53.18 RCW. [1967 ex.s. c 108 § 2.]

***Reviser's note:** RCW 28.72.010 through 28.72.090 was repealed and reenacted as RCW 28A.72.010 through 28A.72.090.

41.56.030 Definitions. As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter as designated by RCW 41.56.020, or any subdivision of such public body.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Uniformed personnel" means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of AA counties or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended. [1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

Construction——1973 c 131: See RCW 41.56.905.

Severability——1973 c 131: See RCW 41.56.910.

Public employment relations commission: Chapter 41.58 RCW.

41.56.040 Right of employees to organize and designate representatives without interference. No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter. [1967 ex.s. c 108 § 4.]

41.56.050 Disagreement in selection of bargaining representative——Intervention by commission. In the event that a public employer and public employees are in disagreement as to the selection of a bargaining representative the commission shall be invited to intervene as is provided in RCW 41.56.060 through 41.56.090. [1975 1st ex.s. c 296 § 16; 1967 ex.s. c 108 § 5.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.060 Determination of bargaining unit——Bargaining representative. The department, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. The commission shall determine the bargaining representative by (1) examination of organization membership rolls, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor. [1975 1st ex.s. c 296 § 17; 1967 ex.s. c 108 § 6.]

Effective date——1975 2nd ex.s, c 5: See RCW 41.58.901.

41.56.070 Election to ascertain bargaining representative. In the event the commission elects to conduct an election to ascertain the exclusive bargaining representative, and upon the request of a prospective bargaining representative showing written proof of at least thirty percent representation of the public employees within the unit, the commission shall hold an election by secret ballot to determine the issue. The ballot shall contain the name of such bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority vote of the public employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second-largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. Any agreement which contains a provision for automatic renewal or extension of the agreement shall not be a valid agreement; nor shall any agreement be valid if it provides for a term of existence for more than three years. [1975 1st ex.s. c 296 § 18; 1967 ex.s. c 108 § 7.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.080 Certification of bargaining representative——Scope of representation. The bargaining representative which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent, all the public employees within the unit without regard to membership in said bargaining representative: *Provided*, That any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and if the exclusive bargaining representative has been given reasonable opportunity to be present at any initial meeting called for the resolution of such grievance. [1975 1st ex.s. c 296 § 19; 1967 ex.s. c 108 § 8.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.090 Rules and regulations. The commission shall promulgate, revise or rescind such rules and regulations as it may deem necessary or appropriate to administer the provisions of this chapter in conformity with the intent and purpose of this chapter and consistent with the best standards of labor-management relations. [1975 1st ex.s. c 296 § 20; 1967 ex.s. c 108 § 9.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.100 Authority and duty of employer to engage in collective bargaining——Limitations——Mediation upon failure to agree. A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative: *Provided*, That nothing contained herein shall require any public employer to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure and authority to the board created by chapter 41.06 RCW. Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. [1975 1st ex.s. c 296 § 21; 1967 ex.s. c 108 § 10.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.
Arbitration of labor disputes: Chapter 49.08 RCW.

41.56.110 Dues——Deduction from pay. Upon the written authorization of any public employee within the bargaining unit and after the certification or recognition of such bargaining representative, the public employer shall deduct from the pay of such public employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative. [1973 c 59 § 1; 1967 ex.s. c 108 § 11.]

41.56.120 Right to strike not granted. Nothing contained in this chapter shall permit or grant any public employee the right to strike or refuse to perform his official duties. [1967 ex.s. c 108 § 12.]

41.56.122 Collective bargaining agreements——Authorized provisions. A collective bargaining agreement may:

(1) Contain union security provisions: *Provided,* That nothing in this section shall authorize a closed shop provision: *Provided further,* That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.

(2) Provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement. [1975 1st ex.s. c 296 § 22; 1973 c 59 § 2.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.125 Arbitrators——Selection——Additional method. In addition to any other method for selecting arbitrators, the parties may request the public employment relations commission to, and the commission shall, appoint a qualified person who may be an employee of the commission to act as an arbitrator to assist in the resolution of a labor dispute between such public employer and such bargaining representative arising from the application of the matters contained in a collective bargaining agreement. The arbitrator shall conduct such arbitration of such dispute in a manner as provided for in the collective bargaining agreement: *Provided,* That the commission shall not collect any fees or charges from such public employer or such bargaining representative for services performed by the commission under the provisions of this chapter: *Provided further,* That the provisions of chapter 49.08 RCW shall have no application to this chapter. [1975 1st ex.s. 296 § 23; 1973 c 59 § 3.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.130 Rules and regulations of state personnel board——Mandatory subjects. See RCW 41.06.150.

41.56.140 Unfair labor practices for public employer enumerated. It shall be an unfair labor practice for a public employer:

(1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

(2) To control, dominate or interfere with a bargaining representative;

(3) To discriminate against a public employee who has filed an unfair labor practice charge;

(4) To refuse to engage in collective bargaining. [1969 ex.s. c 215 § 1.]

41.56.150 Unfair labor practices for bargaining representative enumerated. It shall be an unfair labor practice for a bargaining representative:

(1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

(2) To induce the public employer to commit an unfair labor practice;

(3) To discriminate against a public employee who has filed an unfair labor practice charge;

(4) To refuse to engage in collective bargaining. [1969 ex.s. c 215 § 2.]

41.56.160 Commission to prevent unfair labor practices and issue remedial orders. The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law. [1975 1st ex.s. c 296 § 24; 1969 ex.s. c 215 § 3.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.170 Commission to prevent unfair labor practices and issue remedial orders——Procedure——Complaint——Notice of hearing——Answer——Intervening parties——Commission not bound by technical rules of evidence. Whenever a charge has been made concerning any unfair labor practice, the commission shall have power to issue and cause to be served a complaint stating the charges in that respect, and containing a notice of hearing before the commission at a place therein fixed to be held not less than seven days after the serving of said complaint. Any such complaint may be amended by the commission any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint within five days after the service of such original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint. In the discretion of the commission, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the commission shall not be bound by technical rules of evidence prevailing in the courts of law or equity. [1975 1st ex.s. c 296 § 25; 1969 ex.s. c 215 § 4.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.180 Commission to prevent unfair labor practices and issue remedial orders——Procedure——Subpoena power——Oaths and affirmations——Receiving evidence. For the purpose of all hearings and investigations, which, in the opinion of the commission, are necessary and proper for the exercise of the powers vested in it by RCW 41.56.140 through 41.56.190, the commission shall at all reasonable times have access to, for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or lists of employees, of any person being investigated or proceeded against that relates to any matter under investigation or in question. The commission shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the commission. The commission, or any agent, or agency designated by the commission for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. [1975 1st ex.s. c 296 § 26; 1969 ex.s. c 215 § 5.]

Reviser's note. "this act" translated to "RCW 41.56.140 through 41.56.190"; 1969 ex.s. c 215 included sections codified as RCW 28B.16.230, 41.06.300 and 41.56.400 through 41.56.420.

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.190 Commission to prevent unfair labor practices and issue remedial orders——Procedure——Petition to court for enforcement of order or other relief——Transcript filed——Notice——Court decree. The commission, or any party to the commission proceedings, thirty days after the commission has entered its findings of fact, shall have power to petition the superior court of the state within the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the commission. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the commission. [1975 1st ex.s. c 296 § 27; 1969 ex.s. c 215 § 6.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.200 Department to prevent unfair labor practices and issue remedial orders——Application to state higher education personnel. See RCW 28B.16.230.

41.56.210 Department to prevent unfair labor practices and issue remedial orders——Application to state civil service employees. See RCW 41.06.340.

41.56.220 Right of employee representing bargaining unit to be absent from employment during legislative session——Replacement. Any public employee who represents fifty percent or more of a bargaining unit or who represents on a state-wide basis a group of five or more bargaining units shall have the right to absent himself from his employment without pay and without suffering any discrimination in his future employment and without losing benefits incident to his employment while representing his bargaining unit at the legislature of the state of Washington during any regular or extraordinary session thereof: *Provided,* That such employee is replaced by his bargaining unit with an employee who shall be paid by the employer and who shall be qualified to perform the duties and obligations of the absent member in accordance with the rules of the civil service or other standards established by his employer for such absent employee. [1969 ex.s. c 174 § 1.]

41.56.400 Interim committee on public employees collective bargaining——Created. There is hereby created a committee to study the public employees collective bargaining act as provided in chapter 41.56 RCW. As used in RCW 41.56.400 through 41.56.420 unless the context indicates otherwise the term "committee" shall mean the interim committee on public employees collective bargaining. [1969 ex.s. c 215 § 7.]

Reviser's note: "this act" translated to RCW 41.56.400 through 41.56.420; 1969 ex.s. c 215 included sections codified in RCW 28B.16.230, 41.06.340, and 41.56.140 through 41.56.190.

Appropriation——1969 ex.s. c 215: "There is hereby appropriated out of the general fund to the legislative council for the biennium ending June 30, 1971, to carry out the purposes of sections 7, 8, 9, 10 and 11 of this act the sum of twenty-five thousand dollars, or so much thereof as may be necessary." [1969 ex.s. c 215 § 12.] Sections 7, 8, 9, 10 and 11 of this act are RCW 41.56.400 through 41.56.420.

41.56.405 Interim committee on public employees collective bargaining——Membership. The committee shall have the following membership:

(1) Two senators to be appointed by the president of the senate, not more than one from the same political party, and two representatives to be appointed by the speaker of the house, not more than one from the same political party;

(2) Three representatives of public employees as "public employees" is defined in RCW 41.56.030 to be

appointed by the governor; and

(3) Three representatives of public employers as "public employers" is defined in RCW 41.56.030 to be appointed by the governor.

In addition, the department of labor and industries shall cooperate with the committee and maintain a liaison representative, who shall be a nonvoting member. [1969 ex.s. c 215 § 8.]

41.56.410 Interim committee on public employees collective bargaining——Chairman——Officers——Rules of procedure——Ad hoc committees——Legislative members as liaison members to council——Staff. The committee, by majority vote, shall select from among the members a chairman and such other officers as the committee shall deem appropriate. The committee, by majority vote, may prescribe rules of procedure for itself, may from time to time establish ad hoc committees, and may take such other action as it shall deem appropriate to accomplish its purposes.

The legislative members of the committee shall serve as liaison members to the legislative council. The staff of the legislative council shall serve as the staff of the committee and shall provide such clerical, research and other assistance as the committee shall deem appropriate to accomplish its purposes. [1969 ex.s. c 215 § 9.]

41.56.415 Interim committee on public employees collective bargaining——Reimbursement for expenses——Manner of payment. The members of the committee shall receive no compensation but shall be reimbursed for their expenses while attending meetings of the committee in the same manner as legislators engaged in interim committee business as in RCW 44.04.120. Payment of expenses shall be made by vouchers approved in the same manner as other expenses of the legislative council. [1969 ex.s. c 215 § 10.]

41.56.420 Interim committee on public employees collective bargaining——Duties——Reports——Recommendations to include proposed legislation. The committee shall study the operation of chapter 108, Laws of 1967 extraordinary session, relating to public employees collective bargaining, including an evaluation of the collective bargaining practices and procedures of uniformed personnel, and review the efficacy of RCW 28.75.130 (28B.16.130), 41.06.340, 41.56.140 through 41.56.190 and 41.56.400 through 41.56.420 or any part thereof as a means of furthering and improving management relationships within public service. The committee shall submit its report to the governor and the state legislature, with a copy to the legislative council, prior to the convening of any regular session of the legislature, or to any special session if the committee deems it appropriate. The report shall contain specific recommendations as to necessary or desirable changes, if any, in the law, and shall also include any proposed legislation necessary to implement the recommendations of the committee. [1973 c 131 § 9; 1969 ex.s. c 215 § 11.]

Construction——**1973 c 131: See RCW 41.56.905.**

Severability——**1973 c 131: See RCW 41.56.910.**

41.56.430 Uniformed personnel——Legislative declaration. The intent and purpose of *this 1973 amendatory act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes. [1973 c 131 § 1.]

***Reviser's note:** "this 1973 amendatory act" [1973 c 131] consists of RCW 41.56.430-41.56.490, 41.56.905, 41.56.910, and the 1973 c 131 amendments to RCW 41.56.030 and 41.56.420.

Construction——**1973 c 131: See RCW 41.56.905.**

Severability——**1973 c 131: See RCW 41.56.910.**

41.56.440 Uniformed personnel——Negotiations——Impasse defined——Fact-finding panel——Hearings——Findings. Negotiations between representatives of the public employer and uniformed personnel shall be commenced at least five months prior to the submission of the budget to the legislative body of the public employer. If after a forty-five day period of negotiation between representatives of the public employer and uniformed personnel, an agreement has not been concluded, then an impasse is declared to exist, and either party may voluntarily submit the matters in dispute to mediation, as provided for in RCW 41.56.100. If the parties have still not reached agreement after a ten day period of mediation, a fact-finding panel shall be created in the following manner: Each party shall appoint one member within two days; the two appointed members shall then choose a third member within two days who shall act as chairman of the panel. If the two members so appointed cannot agree within two days to the appointment of a third member, either party may request, and the commission shall name a third member who shall be chairman of the fact-finding panel and who may be an employee of the commission. The panel shall begin hearings on the matters in dispute within five days of the formation of the fact-finding panel and shall conclude such hearings and issue findings of fact and recommendations to the parties within thirty days of the date upon which hearings were commenced.

Reasonable notice of such hearings shall be given to the parties who shall appear and be heard either in person or by counsel or other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Minutes of the proceedings shall be taken. Any oral or documentary evidence and other data deemed relevant by the panel may be received in evidence. The panel shall have the power to administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel material to a just determination of the issues in dispute and to issue subpoenas. Costs of each party's appointee shall be paid by the party, and the costs of proceedings otherwise shall be borne by the commission.

In making its findings, the fact-finding panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards of guidelines to aid it in developing its recommendations, it shall take into consideration those factors set forth in RCW 41-.56.460. [1975 1st ex.s. c 296 § 28; 1973 c 131 § 3.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

Construction——1973 c 131: See RCW 41.56.905.

Severability——1973 c 131: See RCW 41.56.910.

41.56.450 Uniformed personnel——Arbitration panel——Powers and duties——Hearings——Findings and determination. If an agreement has not been reached within forty-five days after mediation and fact-finding has commenced, an arbitration panel shall be created in the following manner: Each party shall submit a list of three persons to the commission, which shall then name one from each list as members to the panel, all within two days. The two appointed members shall utilize one of the two following options in the appointment of the third member, who shall act as chairman of the panel: (1) By mutual consent, the two appointed members may jointly request the commission, and the commission shall appoint a third member within two days of such request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (2) The two appointed members shall choose a third member within two days. The costs of each party's appointee shall be borne by each party respectively, and the costs of the proceedings otherwise shall be shared equally between the parties.

If the two members so appointed under alternative (2) cannot agree within two days to the appointment of a third member, either party may apply to the superior court of the county where the labor disputes exist and request that the third member of the panel be appointed as provided by RCW 7.04.050. The panel thus composed shall be deemed an agency of the executive director and a state agency for the purposes of *this 1973 amendatory act. The panel shall hold hearings on the matters in dispute within five days after the formation of the arbitration panel and take oral or written testimony.

Reasonable notice of such hearings shall be given to the parties who shall appear and be heard either in person or by counsel or other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. A recording of the proceedings shall be taken. Any oral or documentary evidence and other data deemed relevant by the panel may be received in evidence. The panel shall have the power to administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements and documents as may be deemed by the panel material to a just determination of the issues in dispute and to issue subpoenas. If any person refuses to obey such subpoena or refuses to be sworn to testify, or any witness, party or attorney of a party is guilty of any contempt while in attendance at any hearing held hereunder, the panel may invoke the jurisdiction of the superior court in the county where a labor dispute exists and such court shall have jurisdiction to issue an appropriate order. Any failure to obey such order may be punished by the court as a contempt thereof.

The hearing conducted by the panel shall be concluded within twenty days of the time of commencement and, within fifteen days after conclusion of the hearings, the chairman shall make written findings of fact and a written determination of the dispute based upon the issues presented, a copy of which shall be mailed or otherwise delivered to the employees' negotiating agent or its attorney or other designated representative and to the employer or the employer's attorney or designated representative. The decision made by the panel shall be final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious. [1975 1st ex.s. c 296 § 29; 1973 c 131 § 4.]

***Reviser's note:** "this 1973 amendatory act", see note following RCW 41.56.430.

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

Construction——1973 c 131: See RCW 41.56.905.

Severability——1973 c 131: See RCW 41.56.910.

41.56.460 Uniformed personnel——Arbitration panel——Basis for determination. In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer.

(b) Stipulations of the parties.

(c) Comparison of the wages, hours and conditions of employment of the uniformed personnel of cities and counties involved in the proceedings with the wages, hours, and conditions of employment of uniformed personnel of cities and counties respectively of similar size on the west coast of the United States.

(d) The average consumer prices for goods and services, commonly known as the cost of living.

(e) Changes in any of the foregoing circumstances during the pendency of the proceedings.

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

(g) Findings of fact made by the fact–finder pursuant to RCW 41.56.440. [1973 c 131 § 5.]

Construction——1973 c 131: See RCW 41.56.905.

Severability——1973 c 131: See RCW 41.56.910.

41.56.470 Uniformed personnel——Arbitration panel——Rights of parties. During the pendency of the proceedings before the arbitration panel, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under *this 1973 amendatory act. [1973 c 131 § 6.]

***Reviser's note:** "this 1973 amendatory act", see note following RCW 41.56.430.

Construction——1973 c 131: See RCW 41.56.905.

Severability——1973 c 131: See RCW 41.56.910.

41.56.480 Uniformed personnel——Refusal to submit to procedures——Invoking jurisdiction of superior court——Contempt. If the representative of either or both the uniformed personnel and the public employer refuse to submit to the procedures set forth in RCW 41.56.440 and 41.56.450, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof. A decision of the arbitration panel shall be final and binding on the parties, and may be enforced at the instance of either party, the arbitration panel or the commission in the superior court for the county where the dispute arose. [1975 1st ex.s. c 296 § 30; 1973 c 131 § 7.]

Effective date——1975 2nd ex.s. c 5: See RCW 41.58.901.

Construction——1973 c 131: See RCW 41.56.905.

Severability——1973 c 131: See RCW 41.56.910.

41.56.490 Uniformed employees——Strikes prohibited——Violations——Fines. The right of uniformed employees to engage in any strike, work slowdown or stoppage is not granted. Where an organization, recognized as the bargaining representative of uniformed employees subject to this chapter, as amended by *this 1973 amendatory act, wilfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41-.56.480 and 41.56.490, or wilfully offers resistance to such order, whether by strike or otherwise, the punishment for each day that such contempt persists, may be a fine fixed in the discretion of the court in an amount not to exceed two hundred fifty dollars per day. Where an employer wilfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56-.480 or wilfully offers resistance to such order, the punishment for each day that such contempt persists may be a fine, fixed at the discretion of the court in an amount not to exceed two hundred fifty dollars per day to be assessed against the employer. [1973 c 131 § 8.]

***Reviser's note:** "this 1973 amendatory act", see note following RCW 41.56.430.

Construction——1973 c 131: See RCW 41.56.905.

Severability——1973 c 131: See RCW 41.56.910.

41.56.900 Short title——Effective date——1967 ex.s. c 108. RCW 41.56.010 through 41.56.900 and 41.06.150 shall be known as the "Public Employees' Collective Bargaining Act" and shall take effect on July 1, 1967. [1967 ex.s. c 108 § 14.]

41.56.905 Uniformed personnel——Provisions additional——Liberal construction——1973 c 131. The provisions of *this 1973 amendatory act relating to uniformed personnel are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. If any provision of *this 1973 amendatory act conflicts with any other statute, ordinance, rule or regulation of any public employer as it relates to uniformed employees, the provisions of *this 1973 amendatory act shall control. [1973 c 131 § 10.]

***Reviser's note:** "this 1973 amendatory act", see note following RCW 41.56.430.

41.56.910 Severability——1973 c 131. If any provisions of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 c 131 § 11.]

41.56.950 Retroactive date in collective bargaining agreements allowable, when. Whenever a collective bargaining agreement between a public employer and a bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the same parties, the effective date of such collective bargaining agreement may be the day after the termination date of the previous collective bargaining agreement and all benefits included in the new collective bargaining agreement including wage increases may accrue beginning with such effective date as established by this section. [1971 ex.s. c 187 § 1.]

APPENDIX C

Contract Analysis

The following analysis is a reaction to specific negotiations proposals which frequently appear as part of the comprehensive contracts proposed by education associations in Washington. The left column is typical language reprinted from a union proposal. The right column contains suggested responses which it would be appropriate for boards to make. This language is not intended as a particular counter-proposal, but rather as the intended negotiated result. Also included in this column are comments concerning the proposal and rationale for the suggestions.

PREAMBLE

Typical Proposed Language:
This agreement is made and entered into by and between the .... School District Number ...., hereinafter referred to as "The District" acting through its Board of Directors, hereinafter referred to as "The Board", and the .... Education Association, hereinafter referred to as "The Association", and referred to collectively as "The Parties".

Suggested Language:
Acceptable as written.

RATIONALE

The entire agreement should be as brief as possible. Such wordage as in this section add nothing to the substance of the agreement and could be eliminated without any loss of meaning to the contract.

WITNESSETH

Typical Proposed Language:
WHEREAS, The Board and the Association recognize and declare that providing quality education for the children in the District is their mutual aim and that the character of such education depends upon the quality and morale of the teaching service, and
WHEREAS, the members of the teaching profession are particularly qualified to advise the formulation of policies and programs designed to improve educational standards, and
WHEREAS, the Board has an obligation, pursuant to Washington State Law, to negotiate with the Association as the representative of employees hereinafter designated, and
WHEREAS, the parties have reached certain understandings which they desire to confirm in this agreement.
It is hereby agreed as follows:

Suggested Language: None.

COMMENTS

The first paragraph seeks to place the interests of the Board and those of the Association on the same level. They are not; those of the Board are mandated by law and are those, as far as the Association is concerned, of employer-employee relations. The second paragraph makes claims for the qualifications of the teachers that may not generally be true. The third paragraph makes a statement that is unquestioned, and which standing alone, adds nothing to the agreement.

RATIONALE

The entire agreement should be as brief as possible. Such wordage as in this section add nothing to the substance of the agreement and can be eliminated without any loss of meaning to the contract.

EXCLUSIVE RECOGNITION

Typical Proposed Language:

The Board recognizes the Association as the sole and exclusive negotiating representative for all certificated personnel employed or to be employed by the Board, with the exception of the chief administrative office, for the purpose of exercising all rights accorded certificated employee organizations by Chapter 28A.72RCW.

When used hereinafter, the term "certificated employee" shall refer to each employee represented by the Association. Certificated employee means any employee holding a valid teaching Certificate of the State of Washington and who is employed by the District with the exception of the chief administrative officer.

Unless the context in which they are used clearly requires otherwise, words used in this agreement denoting gender shall include both the masculine and feminine; and words denoting number shall include both the singular and the plural.

Suggested Language:

Add, following . . . of the chief administrative officer, wherever appearing, ". . . principals, assistant principals and any other employees who may be excluded by law or mutual consent of the parties".

RATIONALE

The definition of the unit should be carefully drawn to include all the full time equivalent teaching employees, but to exclude all others such as teaching aides, clerical, administrative, custodial and any others who may have the right to form a bargaining unit.

MANAGEMENTS' RIGHTS

Typical Proposed Language:

The right to manage the school district and to direct the employees and operations is vested in and retained by the Board, except as is this right limited by this contract, the procedural agreement and RCW.

Suggested Language:

All management rights, powers, authority and functions, whether heretofore or hereafter exercised, and regardless of the frequency or infrequency of their exercise, shall remain vested exclusively in the district. It is expressly recognized that such rights, powers, authority and functions include, but are by no means whatever limited to, the full and exclusive control, management and operation of its business and its affairs; the determination of the scope of its activities, business to be transacted, functions to be performed, and methods pertaining thereto; the location of its offices, schools and places of business and equipment to be utilized, and the layout thereof; the right to establish or change shifts, schedules of work and standards of performance; the right to establish, change, combine or eliminate jobs, positions, job classifications and descriptions; the right to establish compensation for new or changed jobs or positions; the right to establish new or change existing procedures, methods, processes, facilities, machinery and equipment or make technological changes; the right to maintain order and efficiency; the right to contract or subcontract any work; the right to designate the work and functions to be performed by the district and the places where it is to be performed; the determination of the number, size and location of its offices, schools and other places of business, or any part thereof; the right to establish, administer, or change bonus, incentive or merit compensation plans; the right to make and enforce safety and security rules and rules of conduct; the determination of the number of employees and the direction of the employees, including but by no means whatever limited to hiring, selecting and training of new employees, and suspending or discharging for cause, scheduling, assigning, laying off, recalling, promoting, retiring, demoting and transferring of its employees.

The district and the association agree that the above statement of management rights is for illustrative purposes only and is not to be construed or interpreted so as to exclude those prerogatives not mentioned which are inherent to management, including those prerogatives granted by law. It is the intention of the district and the association that the rights, powers, authority and functions of management shall remain exclusively vested in the district except insofar as expressly and specifically surrendered or limited by the express provisions of this agreement. The exercise of these rights shall not be subject to the grievance procedure of this agreement.

RATIONALE

The Board has the right, and responsibility under the law, to transact all of the business of the district. These rights and responsibilities cannot be delegated nor negotiated away.

STATUS OF THE AGREEMENT

Typical Proposed Language:

Throughout this agreement certain rights and functions are accorded and ascribed to the Association which are in addition to the rights and functions provided for in the rules, regulations, policies, resolutions and practices of the District. These rights and functions are afforded to the Association as the legal representative for all employees covered under this agreement. Said rights and functions are not common to any other employee organization within the district. Other privileges accorded the Association and its constituent organizations shall not be granted to a minority organization seeking to represent employees officially represented by the Association. Payroll deduction for organization dues and the right to participate as an organization officially representing employees in grievance processing shall be an exclusive right of the Association.

This Agreement shall become effective when ratified by the Board and the Association and executed by authorized representatives thereof and may be amended or modified only with mutual consent of the parties.

The Agreement shall supercede any rules, regulations, policies, resolution or practices of the District which shall be contrary to or inconsistent with its terms.

Existing rules, regulations, policies, resolutions, or practices of the District not in conflict with this Agreement shall remain in full force.

Suggested Language: None.

RATIONALE

Such a clause adds nothing of substance to the agreement, but does present a convenient and likely spot for the Association to try to camouflage attempts to enlarge the scope of negotiations by referencing other areas in seemingly innocuous and fatuous statements. The significant items contained are all provided for elsewhere in the agreement. All in all, this clause should be discarded.

PREVAILING RIGHTS

Typical Proposed Language:

Unless otherwise provided in this agreement nothing contained herein shall be interpreted and or applied so as to eliminate, reduce or otherwise de-

Suggested Language:

Add ". . . salaries or employee benefits . . . " Delete ", or other provisions".

tract from current individual salaries, employee benefits, or other provisions, under existing rules, regulations, policies, resolutions and practices of the District in effect prior to the effective date of this agreement.

RATIONALE

This clause should be limited to economic provisions such as base wages, or base wages and benefits, rather than to be all-inclusive with regard to rights under district policies and practices.

CONTRACT COMPLIANCE

Typical Proposed Language:

All individual contracts shall be subject to and consistent with Washington State law and the terms and conditions of the Agreement. Any individual employee contract hereinafter executed shall expressly provide that it is subject to terms of this and subsequent Agreements between the Board and the Association. If any individual employee contract contains any language inconsistent with this Agreement, this Agreement during its duration, shall be controlling.

The Board shall not solicit execution of any individual employee contract at such time or in any such manner as shall constitute an unfair labor practice, as defined by the National Labor Relations Act and subsequent National Labor Relations Board rulings.

The Board shall not, directly or indirectly, engage in or assist in any unfair labor practice. In the event that a representative of the Board is found guilty of such practice, the Board agrees to terminate the employment of that representative at the end of the current semester.

Suggested Language:

Individual employee contracts issued to members of the bargaining unit will contain no provisions that violate any section of this agreement.

COMMENTS

Paragraph one of the proposal is too broad and controlling. Employee contracts should have more flexibility than this proposed clause would allow. The Agreement should not be allowed to control every section of every contract that is written.

Paragraph two attempts to introduce controls that are provided by current law. School negotiations are indirectly subject to NLRB controls and no attempt to write such controls into the agreement should be encouraged.

Paragraph three is aimed directly at the superintendent. No one should be expected to work with such a threat hanging constantly over his head.

RATIONALE

Such a clause is not a required part of an agreement. If it is included it should be a simple statement confirming the applicability of its provisions to the individual contracts without imposing undesirable restraints in areas that are not specifically covered in the agreement.

AGREEMENT ADMINISTRATION

Typical Proposed Language:

Association representative(s) shall meet with the Superintendent at least once a month during the school year to review and discuss current school problems and practices and the administration of this Agreement.

Suggested Language:

Association representatives may meet with the Superintendent at times and concerning matters of concern mutually agreed upon.

COMMENTS

It is important to keep the lines of communications open. However meetings should not be held just for the purpose of holding meetings. When something of mutual concern should be discussed it should be disposed of in a timely manner without a rigid timetable for meetings.

RATIONALE

Timely discussion of problems in a non-adversary environment can do much to eliminate

potential grievances. The details of arranging such meetings and the formal matters of how they should be conducted should be contained in district policy. A well written policy adequately covering any pertinent subject is far more manageable than contractual language in an Agreement.

CONFORMITY TO LAW

Typical Proposed Language:

The Agreement shall be governed and construed according to the Constitution and laws of the State of Washington. If any provision of this Agreement, or any application of this Agreement to any group employee or group of employees covered hereby shall be found contrary to law, such provision or application shall have effect only to the extent permitted by law, and all other provisions or applications of the Agreement shall continue in full force and effect. Any provisions of this Agreement which may be contrary to law at the time of making this Agreement, but become lawful during the life of this Agreement, shall take effect upon their lawfulness.

Suggested Language:

Acceptable as written.

COMMENTS

This clause is not a required part of an Agreement.

RATIONALE

This so-called "saving" clause may be helpful in case any part of the agreement might be subject to litigation and be declared invalid. The remainder of the agreement would remain operable.

DISTRIBUTION OF CONTRACT

Typical Proposed Language:

Within thirty (30) days following ratification signing of this Agreement, the District shall print and distribute to all employees copies of this Agreement. Additional copies shall be provided to the Association. All employees new to the District shall be provided a copy of the Agreement by the District upon issuance of their individual contract and such Agreement shall be available to all applicants for employee positions.

Any employee who does not receive a copy of this Agreement from the Board or someone acting for the Board, shall not be placed on probation, suspended, discharged, nonrenewed or otherwise affected in contract status because of failure to comply with the provisions of which there was no actual knowledge at the time of the alleged infraction.

Suggested Language:

Within thirty (30) days following ratification signing of this Agreement, the District shall print and distribute to all members of the bargaining unit copies of this Agreement. Twenty-five (25) additional copies shall be furnished to the Association. Cost for such printing and distribution shall be borne equally by the District and the Association. All new employees to the District shall be provided a copy of this Agreement by the District upon issuance of their individual contract. A copy of the Agreement shall be made available to all applicants for affected employee positions.

COMMENTS

The cost of printing and distributing the Agreement should not be an expense to only the Board. It is a joint document. There should be a practical limit to the number of copies furnished to the Association. The procedure for distribution of the Agreement should be the subject of a District policy. In the presence of such a policy the second paragraph becomes an unreasonable waiver of the rights of the Board.

RATIONALE

Upon ratification this Agreement becomes equally binding on the Board and the Associ-

ation. Any expenses involved in the implementation should reasonably be divided equally between the parties. The second paragraph is based on the assumption that the Board may violate this section. Any such assumption is unworthy of contractual language; if in fact such a violation were to occur it would be an appropriate subject of a grievance.

ISSUANCE OF INDIVIDUAL EMPLOYMENT CONTRACTS

Typical Proposed Language:

Individual contracts for employees of the District shall not be issued while negotiations are in progress or prior to execution by ratification of a successor Contract by the Board and Association, but shall be issued within ten (10) days thereafter.

Suggested Language: None.

COMMENTS

The Association is seeking to use the need for individual contracts as a bat over the head of the Board negotiators. What happens if no Agreement is reached on the contract? The Board has the legal requirement to issue contracts; this must be done at a time that will insure their signing and return to allow time for any hiring that may be necessary to insure a full teacher corps.

RATIONALE

A signed Agreement is not a legal requirement for an operating school district; teacher contracts are. To make the second dependent on the first puts an unrealistic burden on the Board negotiators. If a cut-off date for negotiations of a date late in May was acceptable perhaps a moratorium on contracts until that date might be negotiated.

CONTRACTING OUT

Typical Proposed Language:

All work customarily performed by the District in its own facilities with its own employees shall continue to be performed by the District and its employees. There shall be no subcontracting for services of employees for the term of this contract and all certificated assignments presently performed and all certificated assignments to be performed shall be performed by employees covered under this Contract.

Suggested Language: None.

COMMENTS

This matter should be covered by a firm statement in a strong Management Rights clause.

RATIONALE

The District has the legal right and responsibility to manage the business of the District in accordance with sound business policies. The right to contract or subcontract for services is certainly a business matter and cannot be negotiated or delegated away.

REOPENER CLAUSE

Typical Proposed Language:

This contract may be reopened for amendment(s) by the mutual consent of both parties. Requests

Suggested Language:

The Agreement expressed herein in writing constitutes the entire Agreement between the parties and for such amendment by either party must be in writing and must include a summary of the proposed amendment(s).

no oral statement shall add to or supercede any of its provisions.

The parties acknowledge that each has had the unlimited right and opportunity to make proposals with respect to any matter deemed a proper subject for collective bargaining. The results of the exercise of that right are set forth in this Agreement. Therefore, except as otherwise provided in this Agreement, each voluntarily and unqualifiedly agree to waive the right to oblige the other party to bargain with respect to any subject or matter not specifically referred to or covered by this Agreement.

This Agreement may be reopened for amendment only by the mutual consent of the parties. Requests for such amendment by either party must be in writing and must include a summary of the proposed amendment.

RATIONALE

The contract should not be in a climate of constant pressure for renegotiation.

PAYROLL DEDUCTIONS

Typical Proposed Language:

The Association and its affiliates (WEA and NEA) shall have the exclusive right of automatic payroll deduction of membership dues, assessments and fees for employees.

The Association shall provide an automatic payroll form to each employee. The employee shall sign and deliver such authorization to the Association during the enrollment period at the beginning of the school year. Once an employee has signed the automatic payroll authorization, dues authorization shall be continuous thereafter.

The Association shall submit the automatic payroll authorization to the District payroll office for processing. A table of prorated annual fees, assessments and fees shall be supplied to the District payroll office by the Association to determine monthly dues deductions.

The automatic payroll authorization shall clearly state that it is understood by the employee signing the authorization that continuation of dues deductions until the end of the dues period on August 31 of each year is a binding condition for automatic payroll authorization. Revocation of membership shall be made in writing to the Association between the beginning of the school year, September 2 and September 22, and shall become effective at that time. The Association shall promptly submit notice of such revocation to the District payroll office.

The District shall provide for dues deductions,

Suggested Language:

Upon proper written authorization from the employee, the District agrees to deduct from the wages of the employee a sum certified as Association dues once each month and to forward that sum to the Association.

The Association agrees to indemnify and hold the Board harmless from all claims against it for or on account of any deductions made from the wages of an employee pursuant to this section of the Agreement.

COMMENTS

The details of the mechanics of the Association's procedure for handling the authorizations should be the subject of policy, not of contractual language.

RATIONALE

The whole area of payroll deductions is one of doubtful legality. However they have become a standard proposal. Such an arrangement is subject to two requirements: 1st, the accounting and bookkeeping system must be able to accommodate the process, and 2nd, there must be sufficient personnel in the accounting department to do the work. If these requirements are met and the District wishes to perform this service, the contract should provide protection for the District against the errors of others. This can be done by providing a "hold harmless" clause.

assessments and fees through automatic payroll authorization and shall, without exception, refrain from intervention or failure to perform such service.

ASSOCIATION RIGHTS AND PRIVILEGES

Typical Proposed Language:

The Association and its representatives shall have the right to use District buildings for meetings and to transact Association business.

The Association shall have the exclusive right to use District facilities and equipment, including typewriters, mimeographing equipment, duplicating equipment, calculating machines and all types of audio-visual equipment at reasonable times when such equipment is not otherwise in use.

The Association shall have the exclusive right to post notices of activities and matters of Association concern on bulletin boards to be provided in each faculty lounge of each building in the District.

The Association shall have the right to use the District mail service and teacher mail boxes for communication purposes.

The Board shall furnish to the Association information concerning the financial resources of the District, including but not limited to: annual financial reports and audits, tentative budgeting requirements and allocations, together with information which may be necessary for the Association to process any grievance or complaint.

The Association and its representatives shall have access to all buildings and to all employees.

Suggested Language:

The Association and its representatives may be granted the privilege of using District buildings for meetings at such times that will not interfere with the normal operation of the business of the District and which will entail no additional costs for building maintenance or custodial care.

The Association may be granted the privilege of using the business machines of the District at reasonable times when such equipment is not otherwise in use. The Association shall furnish all paper and supplies related to such use and shall be responsible for any damage or maintenance charges attributable to their use of the equipment.

The Association shall have the privilege to post notices of activities and matters of Association concern on the right-hand half of bulletin boards provided in the faculty lounges of each building that are to be designated for that purpose. The material posted shall contain nothing of a libelous nature and shall conform to the usual standards of good taste, judged by community standards.

The Association may be granted the privilege of using the teacher mailboxes for communications with the members of the unit. Such items of communications shall be subject to the approval of the building principal concerning size and shape, but not of content.

RATIONALE

All of the asserted rights in this proposal are items of real financial value to the Association. If granted they might be challenged as illegal use of public properties for private interests. In fact, they are a real subsidy of the Association by the District. If they are granted the District should obtain something of equal value from the Association; they are a valuable "quid pro quo" and should not be surrendered carelessly. If granted, they should be granted specifically as privileges, not rights; privileges can be revoked, rights cannot. Specific provision should be made that the granting of these privileges shall be at no expenses to the District; that the uses granted will be at times and under circumstances approved by the administration.

INDIVIDUAL RIGHTS

Typical Proposed Language:

Employees shall be entitled to full rights of citizenship. There shall be no discipline or discrimination with respect to the employment of any persons because of such person's age, sex, marital status, race, creed, color, national origin, domicile, political activity or lack thereof, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification, provided that the prohibition against discrimination because of such handicap shall not apply if the particular disability prevents the proper performance of the worker involved. The private and personal life of any employe is not within the appropriate concern or attention of the Board.

Nothing contained herein shall be construed to deny or restrict to any employee such rights as he may have under applicable laws and regulations. The rights recognized hereunder shall not be exclusive, but are in addition to those provided elsewhere.

Suggested Language:

The District and the Association will cooperate to assure that no employee or applicant for employment is discriminated against by reason of membership or non-membership in the Association. The Association and the District will cooperate to assure compliance with District policies and non-discrimination laws.

COMMENTS

The proposed language is entirely too broad. Current laws prohibit any discrimination on the grounds listed; it is redundant to state them here. The last sentence of the first paragraph is entirely inappropriate.

The second paragraph does not add anything because the District cannot violate the law. The second sentence is essentially meaningless.

RATIONALE

This proposed Article is an example of an attempt to write existing law into the agreement and at the same time to introduce a totally unacceptable principle. The last sentence of the first paragraph opens up an area that must be within the interest of the Board. The private and personal life of an employee is of interest to the District to the extent that such conduct would adversely affect the school operations and the employee morale as a whole. Public education, of all things, must take an interest in the conduct of employees and the effect on the students. Rulings in arbitration cases and legal reports list three grounds upon which an employer can take an interest in the employees' personal lives:

1. **If the employee's behavior harms the District's reputation or ability to provide quality education.**
2. **If the employee's behavior renders him or her unable to perform duties at work.**
3. **If an employee's behavior leads to the refusal or restricts the ability of other employees to work with him or her.**

RIGHT TO JOIN AND SUPPORT THE ASSOCIATION

Typical Proposed Language:

Employees of the District who are represented by the Association shall have the right to freely organize, join and support the Association for the purpose of engaging in negotiations and other concerted activities for mutual aid and protection. As

Suggested Language:

In the second line, after "the right to," add "or not to". In the fourth line add a period after the word "negotiations" and delete the words "and other concerted actions for mutual aid and protection". In the seventh line following "State of Wash-a duly elected body excercising governmental power under the State of Washington, the Board shall not directly or indirectly discourage or deprive any employee of the enjoyment of any rights conferred by the statutes and constitutions of the State of Washington and the United States; or discriminate against any employee with respect to hours, wages or terms or conditions of employment by reason of membership in the Association, participation in any grievances, complaint or proceeding under this agreement or otherwise with respect to terms or conditions of employment.

ington," add "neither the Board nor the Association shall", delete the word "not". In the thirteenth line of after the word "by reason of membership" add "or non-membership".

COMMENTS

The restriction of action in this article must apply equally to the District and the Association.

The deleted word in lines four and five are a right to strike clause and must be eliminated.

RATIONALE

The rights claimed in this proposal are guaranteed by law, with the exception of the stricken phrase. If it is modified to make it equally binding on the Association and the right-to-strike provision is modified it is an acceptable provision.

RIGHT TO DUE PROCESS

Typical Proposed Language:

Employees reserve the right to have a representative of the Association and or counsel present when being reprimanded, warned, disciplined or adversely affected for any reason. When a request for such representation is made, no action shall be taken with respect to the employee until such representative of the Association and/or counsel is present. All information forming the basis for any reprimand, warning, discipline or adverse effect shall be made available to the employee and the Association. All charges shall be in writing.

No employee shall be reprimanded, disciplined, reduced in rank or compensation or deprived of any professional advantage without just cause. An employee has the right to face his accuser(s) and to cross-examine witnesses. If any such reprimand, discipline or reduction in rank, compensation or advantage, including adverse evaluation of an employee's performance asserted by the Board or representative thereof, the employee shall have the right to have his case decided by a court of law or an arbitrator in accordance with the grievance procedure set forth herein, or if applicable, rights guaranteed in RCW28A.58.450.

Suggested Language:

In lines ten and eleven after "to the employee and the Association", add "if the employee so desires". In the second paragraph eliminate the reference to an arbitrator.

COMMENTS

The individual should have the right to determine whether the Association shall be involved.

Until arbitration becomes a requirement of law, the use of an arbitrator should be eliminated. As the proposal states, the teacher has the right to appeal to a court of law as a final determination.

RATIONALE

The right to due process is guaranteed by law. The only purpose of this proposal is to give the Association a piece of the action. Whether or not this is done should be the option of the employee. All matters referred to in this proposal could better be covered by District policy without covering contractual language.

ACADEMIC FREEDOM

Typical Proposed Language:

Academic freedom shall be guaranteed to all employees, and no special limitations shall be placed upon study, investigation, presenting, and interpreting facts and ideas concerning man, human society, the physical and biological world and other

Suggested Language:

Teachers shall have academic freedom in the district. Academic freedom shall mean that teachers are free to present instructional materials which are pertinent to the subject and levels taught, within the outlines of appropriate course content and withbranches of learning subject to accepted standards of professional responsibility.

These responsibilities include a commitment to democratic tradition, a concern for the welfare, growth and development of children, and an insistence upon objective scholarship.

in the planned instructional program, as determined by normal administrative procedures, and shall present all facts of controversial issues in a scholarly and objective manner within the limits of appropriate pedogogical discretion and propriety. Teachers shall be entitled to freedom of discussion within the classroom on all matters which are relevant to the subject matter under study and within their area of professional competence. Notification shall be made to the administration whenever a teacher intends to inject into course coverage units which might reasonably be anticipated to be controversial.

RATIONALE

The Board has the responsibility to design curriculum. This must prepare the student to live in the community and be accepted by its standards. The teacher's right to academic freedom must conform to the bounds of those community standards. The schools belong to the people of the community and they have the right to set standards and expect to have them observed.

MAINTENANCE OF STANDARDS

Typical Proposed Language:

All conditions of employment, including teaching hours, extra compensation for duties outside regular teaching hours, relief periods, leaves, and general teaching conditions shall be maintained at not less than the highest minimum standards in effect in the District at the time that this Agreement is signed, provided that such conditions shall be improved for the benefit of teachers as required by the express provisions of this Agreement. This Agreement shall not be interpreted or applied to deprive teachers of professional advantages heretofore enjoyed unless expressly stated herein.

The duties of any teacher or the responsibilities of any position in the bargaining unit will not be substantially altered or increased without prior negotiation with the Association.

Suggested Language: None.

COMMENTS

Paragraph one contains broad but imprecise commitments that could prevent the Board from modifying in any way any of the working conditions whether covered in this Agreement or not. What is the definition of "highest minimum standards" for every single working condition? Obviously this would be an impossible condition that would completely tie the hands of the Board.

Paragraph two also attempts to completely eliminate any of the changes that might be required to cope with changing conditions in the District. Again, this would completely tie the hands of the Board in accomplishing its mandated duties.

RATIONALE

Everything in such a proposal encroaches on the area of management prerogative. No Board could function with such limits placed upon their actions. A strong Managements' Rights clause should confirm the power of the Board to function and such clause as this proposal must be eliminated.

LENGTH OF WORKDAY

Typical Proposed Language:

Employees shall begin their workday thirty (30) minutes before the students' school day begins and shall continue until thirty (30) minutes after the student's school day ends. The total length of the work day shall not exceed seven and one half (7½) hours which shall include a continuous thirty (30) minute duty free lunch period. Employees teaching in elementary schools shall be provided two (2) fifteen (15) minute relief periods each day, one (1) relief period at mid-morning and one (1) mid-afternoon.

Suggested Language: None.

COMMENTS

Sufficient time must be provided for covering the full day's activities. Consideration should be given to designating the before-school and after-school time as preparation time. It is full-pay time and the District should realize the benefit of it.

RATIONALE

Designating the working hours is a Board prerogative. Enough time to accomplish all of the daily tasks is a requirement. There are some statutory provisions that must be complied with, particularly the need for a 30 minute lunch break. This should be a matter for a District policy and not contractual language.

ASSIGNMENT, TRANSFER AND EMPLOYMENT

Typical Proposed Language:

To assure that pupils are taught by employees working within their area of competence, employees shall not be assigned, except in accordance with the regulations of the State Board of Education, to subjects, grades and or other classes outside their teaching certificates and/or major or minor fields of study or qualifications in specialty areas. Employees shall be notified in writing no later than May 30 of any changes in their programs and schedules for the ensuing school year, including to teach, and any special assignments.

In the determination of assignments and transfers, the convenience and work of the employee shall be considered to the extent these considerations do not conflict with the educational process.

To assure that the employees are given every consideration in filling vacancies or newly created positions which occur at any time within the District, the following procedures shall be used:

a. All vacancies and new positions shall be publicized to the staff and Association through a written notice which shall be distributed to each employee as far in advance of the date of the opening of any vacancy or new position as possible, but in any event, not less than two (2) weeks in advance.

b. Said notice of vacancy or new position shall clearly set forth the qualifications for the position and the procedures for applying.

c. All vacancies or new positions shall be filled on the basis of qualifications for the position.

Suggested Language: None.

COMMENTS

The Board has the legal right and responsibility to manage all of these matters. They should be covered in policies and not in these Agreements.

RATIONALE

All of these practices are strictly Board prerogative. The teachers have some real concerns in this area; they should be consulted in reviewing District policy to insure that, so far as possible, their legitimate concerns are met. The matter should be confined to policy and not to contractual language and the final decision must be that of the Board.

d. The District shall make all possible effort to fill vacancies and positions within their present employees before out of District hiring can occur.

STAFF PROTECTION

Typical Proposed Language:

The Board agrees to save employees harmless from any financial loss, including reasonable attorney's fees for actions arising out of any claim, demand, suit, criminal prosecution or judgment by reason of any act or failure to act by such employee, within or without the school building, provided that such employee, at the time of the act or omission complained of, was acting within the scope of his employment or under the direction of the Board.

Whenever an employee is absent from employment and unable to perform duties as a result of personal injury incurred in the course of employment, including travel to and from employee's work place, the employee will be paid full salary for the period of absence, less the amount of any workman's compensation award made for the disability due to the said injury. No part of such absence will be charged to annual or accumulated sick leave.

The Board shall reimburse employees for replacement of any clothing or other personal property damaged, destroyed or stolen during the course of their employment and the cost of medical, surgical or hospital services incurred as a result of any injury incurred in the course of their employment.

Suggested Language: None.

RATIONALE

The types of insurance that are mandated by law should cover the demands of this proposal. There should be no contractual obligations that exceed the protection provided by insurance.

PERSONNEL FILE

Typical Proposed Language:

Certificated employees or former employees shall, upon request, have the right to inspect all contents of their complete personnel file kept within the District. Upon request a copy, at Board expense, of any documents contained therein, as well as employment references leaving the District, shall be afforded the employee. No secret, duplicate, alternate or other personnel file shall be kept anywhere in the District.

Anyone, at the certificated employee's request, may be present at this review.

Each certificated employee's personnel file shall contain the following minimums of information: annual TB report and required medical information, all certificated employee's evaluation reports, copies of annual contracts, teaching certificates and transcripts of academic records.

Any derogatory material not shown to a certificated employee within (10) ten days after receipt or composition shall not be allowed as evidence in any

Suggested Language: None.

COMMENTS

Employment references for employees leaving the District are considered confidential and not subject to review. Any copies made should not be at the expenses of the Board, but to the one who may benefit from having them.

Any review should be during normal business hours, and then in the presence of an administrator. This is to insure the integrity of the file. Items have been known to disappear from time to time.

Items, other than those mandated by law, could be subjects of negotiation.

The use, and retention, of derogatory material should be considered to reflect the needs of the administration as well as the concerns of the teacher.

grievance or in any disciplinary action against the employee.

No evaluation, correspondence, or other material making derogatory reference to an employee's or former employee's competence, character or manner shall be kept or placed in the personnel file without the employee's knowledge and opportunity to attach his own comments.

Derogatory statements from non-professional sources shall not be included in any file.

Upon request by the employee, the superintendent or his official designee shall sign to verify contents.

RATIONALE

Personnel files are a working tool of the administration. They should contain all of the information that the District requires in its business. Inspection of the file is a guaranteed right. The teacher has an interest in the contents of the file, but the decision of what is required, how long it is retained, etc., should all be provided in a policy that reflects the needs of the District and authority of the Board.

LENGTH OF CONTRACT

Typical Suggested Language:

The length of the regular employee contract shall be one hundred eighty (180) days in total. Any extension of contracted days by the District shall be computed on 1/180th full per diem of the employee's contracted rate of pay.

Suggested Language: None.

COMMENTS

Enough time must be provided before the opening of the school year to assure proper preparation and enough time after school closes to prepare and protect the school properties during the vacation period.

RATIONALE

The length of the school year is a matter of board prerogative. Enough time must be provided to perform all the work necessary to open and to close the school year.

PREPARATION TIME

Typical Proposed Language:

Educational planning time shall be provided for each certificated teacher within the student day. Such time shall not be less than one classroom period at the secondary level and not less than forty-five (45) minutes per day at the kindergarten through sixth grade level. Employees shall maintain the right of how and where preparation time is taken and utilized.

Suggested Language: None.

COMMENTS

Planning time is not usually provided for elementary teachers. The cost of providing relief can be a major consideration in this proposal. The last sentence provided that the administration will have absolutely no control over preparation time; the teacher could use it at home, in the beauty shop or on the golf course.

RATIONALE

The cost of furnishing relief teachers to provide preparation time can be a real financial and practical problem. The time specified for the teachers to be on duty before and after school hours could be designated as preparation time; the District is already paying for it.

ORIENTATION OF STAFF

Typical Proposed Language:

At the annual meeting of all employees prior to the opening of school for students the President of the Association or his designee and the Superintendent or Board Chairman shall have equal time to address the employees.

In the formal program provided for by the District for the orientation of new employees there shall be adequate opportunity for participation by Association representatives.

Suggested Language: None.

COMMENTS

This proposal is an attempt to place the Superintendent and the Association President on the same level of authority and responsibility. They are not. The District pays the expenses for the orientation; it is their time. If a period of 10 or 15 minutes can be allotted to the Association as a privilege it would be a reasonable accommodation.

RATIONALE

Any attempts to establish the position of the Association as anything other than a bargaining agent for a group of employees should be strongly resisted. The employer/employee relationship is a real one and should be maintained. A reasonable time for the Association to present its program to a new employee is an acceptable arrangement, but it should be granted as a privilege and not as a contractual right.

CLASS SIZE

Typical Proposed Language:

The District shall attempt to meet the following standards, but in no event shall it exceed the following maximum standards for class size, except in traditional large group instruction or experimental classes where the Association has agreed in writing to exceed these maxima. The maximum number of students per class in the elementary and secondary shall be 28.

Suggested Language:

The District shall attempt to maintain a reasonable class size within the limits of budget and staffing.

COMMENTS

No contractual language should be adopted that would bind the District to the attainment of impossible or unrealistic goals. The Board has the right and the responsibility to manage the business of the District and the determination of class size is definitely within the prerogative of the District.

RATIONALE

No attempt by the Association to control those areas of Board management should be allowed. A strong Management Rights clause should be written into the agreement to reaffirm the sole responsibility of the Board to function in such areas as this. No commitment to do more than to strive to maintain certain standards should be made.

DURATION OF AGREEMENT

Typical Proposed Language:

The contract shall remain in full force and effect from September 1, 1975 to and including August 31, 1976. The parties shall enter into negotiations for a successor Contract not later than February 1, 1976.

Suggested Language:

This language is satisfactory if a one-year Agreement is acceptable.

RATIONALE

There are advantages to a one-year Agreement and there are other advantages to a multi-year Agreement. We prefer to see multi-year Agreements with reopening only on salaries and new items annually. This adds stability to the employee/employer relationship. Under no circumstances can we recommend an open-end Agreement that is renewed automatically each year.

APPENDIX D

Work Stoppage Procedures

WAC 392-13-010 PURPOSE. The state superintendent of public instruction is directed by law to distribute state equalization apportionment to school districts operating a program approved by the state board of education. WAC 392-13-010 through WAC 392-13-050 are adopted in recognition of the state board's approval standards and procedures set forth in chapter 180-16 WAC and shall govern the state superintendent's determination of whether or not a school district is or has operated an approved program.

WAC 392-13-020 PRESUMPTION OF APPROVED PROGRAM OPERATION — STRIKES — EXCEPTION — APPROVAL/DISAPPROVAL OF PROGRAM DURING STRIKE PERIOD. It shall be presumed that all school days conducted during a school year for which the state board of education has granted annual program approval are conducted in an approved manner, except for school days conducted during the period of a strike. The following shall govern the approval or disapproval of a program conducted during the period of a strike:

(1) Upon the submission of a complaint of substandard program operation by a credible observer, the state superintendent of public instruction may investigate the complaint and program being operated during the strike.

(2) The district's program shall be deemed disapproved if the investigation of the state superintendent establishes a violation of any one or more of the following standards or, as the case may be, such deviations as have been approved by the state board:

(a) WAC 180-16-165(1) (c) [all administrators must have proper credientials];

(b) That portion of WAC 180-16-165(1) (d) which requires that all teachers have proper credientials;

(c) The school district shall provide adequate instruction for all pupils in attendance;

(d) WAC 180-16-165(1) (j) [adequate provisions must be made for health and safety of all pupils];

(e) The local district shall have a written plan for continuing the school program during this period; and

(f) The required ratio of enrolled pupils to certificated personnel for the first five days shall not exceed 60 to 1, for the next five days shall not exceed 45 to 1 and thereafter shall not exceed 30 to 1.

(3) Program disapproval shall be effective as of the day following transmittal of a notice of disapproval by the state superintendent and shall apply to those particular school days encompassed in whole or in part by the remainder of the strike period.

THE NEGOTIATOR 11/75

(4) The decision of the state superintendent shall be final except as it may be reviewed by and at the option of the state board.

(5) The program shall be deemed approved during those days of operation for which a trial court order is in effect ordering striking employees to work.

WAC 392-13-030 STRIKE DEFINED. For the purpose of WAC 392-28-020, the term "strike" shall mean: A concerted work stoppage by employees of a school district of which there has been a formal declaration by their recognized representative and notice thereof provided to the district by such representative at least two calendar school days in advance of the actual stoppage.

WAC 392-13-040 WORK STOPPAGES AND MAINTENANCE OF APPROVED PROGRAMS FOR LESS THAN 180 DAYS NOT CONDONED. Nothing in WAC 392-13-010, WAC 392-13-020, WAC 392-13-030 or WAC 392-13-040 shall be construed as condoning or authorizing any form of work stoppage which disrupts the planned educational program of a district, or any portion thereof, or the maintenance of an approved program for less than the minimum number of school days required by law except as excused for apportionment purposes by the superintendent of public instruction pursuant to RCW 28A.41.170.

WAC 392-13-050 KINDERGARTEN AND GRADE ONE THROUGH TWELVE PROGRAMS CONSIDERED COLLECTIVELY — FAILURE TO OPERATE AN APPROVED PROGRAM — DENIAL OF APPORTIONMENT. For the purpose of WAC 392-13-010 through WAC 392-13-050, a school district's scheduled kindergarten and grade one through twelve programs shall be considered collectively. The total program of a district may not be subdivided for the purpose of applying program approval standards. Those school days which are conducted during the period of a strike in a disapproved manner shall be discounted for state equalization apportionment purposes.

APPENDIX E

Emergency Strike Plan

Introduction

When implementing the following plan it should be understood that the Board of Directors and Administration judge any work stoppage by school district employees to be an illegal act. With this premise the philosophy of the Board of Directors and Administration should be to keep schools open so long as the health and safety of the students and staff can be assured. The purpose of this plan, therefore, is to maintain the instructional program of the school insofar as possible in the event of any emergency or work stoppage by certificated personnel.

THE SUPERINTENDENT OF SCHOOLS WILL ISSUE ALL OFFICIAL DIRECTIONS PERTAINING TO AN EMERGENCY OR WORK STOPPAGE. IN THE EVENT OF AN IMPENDING WORK STOPPAGE, ALL BUILDING AND CENTRAL OFFICE ADMINISTRATIVE SUPERVISORY PERSONNEL WILL REPORT TO THEIR ASSIGNED STATIONS AND FULFILL RESPONSIBILITIES AS DIRECTED. UNLESS OTHERWISE NOTIFIED, SCHOOLS WILL OPEN AT REGULAR TIME FOR STUDENTS. TEACHERS AND ALL OTHER STAFF MEMBERS SHOULD REPORT AS EARLY AS POSSIBLE.

Specific Work Continuance Procedures

1. The superintendent will inform principals and other key administrative personnel of the situation. **Appropriate emergency communications** networks will be used if necessary for communication between the schools and the central office.
2. Parents will be notified by radio and television that school will be in session. Appropriate details will be broadcast. Announcements will be made on all local radio stations.
3. Each principal will prepare and have on file a list of all potential persons who might be available to assist him in keeping the building open and operating. This list will include:
    1. The school certificated staff
    2. The school classified staff
    3. Volunteer aides

4. Retired teachers
5. Volunteer parents
6. Friends and family (spouses)

Phone numbers should be included with names.

Substitutes and district supportive personnel will be assigned according to need. They should not be included on the principals' lists.

The principal and assistant(s) will call each certified and classified staff member assigned to the building, informing them of the nature of the emergency, asking: "*Will you be coming in today?*" (or tomorrow morning, if sufficient time in calling is provided). There should be no urging, no editorializing, no moralizing — just a brief restatement of facts. IT IS THE TEACHER'S DECISION. You may inform teachers, if they ask, that those who stay out lose pay and suffer other penalties as prescribed by law. Make no threats, no guesses. Just state the facts as you have them at the time. Principals will call other potential workers if there is a need for additional staff. A form is provided for recording attendance of each paid employee. Salaried employees sign in each day and the list is turned in to the administration office each morning. Accurate records will be kept.

1. As soon as your staff needs are determined telephone the personnel office which will handle the securing of substitutes.
2. Make your report in this form:

   I have .... people coming in.
   I need .... substitutes.

   (based on covering classes only — no specials, no guidance, etc.)

   You will be called back by the appropriate coordinator and given the names of the substitutes assigned to your building. Substitutes will be asked to report at 7:00 a.m.

   Under the State Board of Education Guidelines on Strikes . . . the required ratio of enrolled pupils to certificated personnel for the first five days of the work stoppage does not exceed 60 to 1, for the next five days does not exceed 45 to 1, and thereafter does not exceed 30 to 1.
3. Open buildings at least a half-hour early. Assign a reliable person to the telephone. Do the following before children arrive:
   a. Inform any pickets, in a friendly but firm manner, that you have been directed to keep school open and that they may not picket on school property. Generally, pickets will be teachers from buildings other than your own. If there is a need for law enforcement to cope with illegal procedures, call the administration office. You can call POLICE directly if the administration office cannot be reached.

      Among illegal procedures would be the blocking of doorways, picketing on the immediate grounds, interference with attendance of pupils, interference with others entering or leaving a school.
   b. Do not make unnecessary calls — keep your lines free for incoming messages.

c. Accept parental help if you can use it. However, have your building plan defined well enough so that each volunteer has a specific assignment and is under the direct supervision of a staff member. (Not to be used for teaching assignments.)

d. Avoid unnecessary contact with pickets — no arguing or fighting, no coffee, and no use of buildings, not even for lavatory use.

e. Do not let any striking teachers into their rooms to pick up lesson plan book, grade book, or other school district property — a substitute will need these materials.

f. Keep all doors locked to prevent entrance from outsiders except those where you have a person in control.

g. Substantiate all illegal procedures with witnesses, photographs, tape recordings, etc.

4. Each principal will develop a plan of operation to be adopted to the individual school. The plan will include methods of keeping the instructional program going with as few people as possible. Such a plan should provide for:
   a. Supervising and teaching schedules showing deployment of personnel.
   b. Assembling children in a central place while assigning available staff.
   c. Scheduling large group activities. (See Section — Large Group Activities.)
   d. Using periodic P.A. announcements and/or bulletins to all working personnel to preserve calm and give information.
   e. Using reliable students to assist as needed.

5. Principals may assume that the following have been taken care of:
   a. Alerting the security personnel and the police asking protection for each school to assure peaceful picketing, to assure that all cars, buses and delivery trucks will be able to enter and leave school grounds and to ensure additional building security both day and night.
   b. Alerting cafeteria personnel of what food will be served and any special provisions that need be made. Food suppliers will be alerted to assure normal deliveries to buildings.
   c. Alerting maintenance, operation and transportation personnel to report as usual.
   d. Providing an alternate method of operating heating plants in the event custodians are not available.

6. Only one person (the superintendent) will speak for the district. Each of the actions taken or statements made during a strike may end up in court and what is said is critical. A strike is a serious disruption of a relationship and it is important that individuals not present personal interpretations. All informational inquiries should be directed to the superintendent's office.

7. All extra-curricular activities will operate as usual unless specifically cancelled. These special activities include ath-

letics, community schools, intramurals, PTSA meetings, concerts, etc.

8. All principals and administrators will meet at the administration office each day during a work-stoppage at 4:00 p.m. Problems of the day and procedures for the following day will be reviewed at these meetings.

QUESTIONS AND ANSWERS

(1) **If a teacher calls in sick, what should the principal say?**
Advise the teachers that in this instance — because of the strike — a note from a doctor will be necessary if the teacher is to receive pay.

(2) **Suppose a teacher wants to come in but is fearful of crossing the picket line?**
Sympathize but indicate that this is the time to put convictions to action. You could suggest that several drive together or come to school very early, before picketing begins. Tell them that pickets cannot legally stop them from entering the building and assure them that law enforcement officials have been asked to protect them if they are blocked or molested.

(3) **What if there are not enough teachers to adequately supervise in a school?**
If a mass strike occurs and only a limited number of teachers are available, some schools may not be opened. This decision will be made by the superintendent.

(4) **Some parents may want to keep their children home. What should they be told?**
Let parents know that this is their privilege, but that every precaution will be taken to insure the safety and well-being and education of each child.

(5) **Can classified personnel assume the responsibility for the supervision of children?**
Yes, but only under the direction of a certificated employee.

(6) **Can unemployed teachers be hired on a temporary basis?**
Yes, as substitutes. Send them to the personnel office.

(7) **What will happen if individuals or groups of teachers request personal leave before or during work stoppage attempts?**
Personal leave requests require approval by the superintendent.

(8) **May principals extend the time of part-time employees such as half-time teachers to full-time during the work stoppage?**
Yes, but an accurate record should be kept, and the personnel office notified as soon as possible.

(9) **May teachers who are on strike perform other extra or co-curricular activities — such as driver training?**
Yes, the more normally all programs operate — the better; however, if teachers call in sick, they cannot conduct their co-curricular activities.

(10) **Should principal offer pay to volunteers?**
Generally no; let volunteers be volunteers. However, if there is good reason for hiring a person, contact the personnel office.

(11) **Will Special Education classes operate as usual?**
Yes, where practical.

(12) **How can employees provide protection for their automobiles?**
If necessary to drive, be certain automobiles are parked on

school property and, if possible, within view of school personnel. Extra security measures should be taken.

(13) Will a teacher be paid an extra stipend for teaching more students than he normally would?

No. The rate of pay is not related to number of students in a class.

(14) Should department chairmen in secondary schools be encouraged to assume extra responsibilities?

Yes. Department chairmen, as well as all other staff members, should assume extra responsibilities during a time of crisis.

(15) What penalties will face classified employees who participate in a strike or refuse to report for work?

It depends on the classified employee group contract. A loss of pay or loss of employment is a possibility.

(16) What about out-of-district commitments which were made prior to the work stoppage attempts?

All non-essential meetings and travel will be cancelled. Priority among all employee activities will be given to fulfillment of the work continuance plan.

(17) What should be communicated to students?

Students should be told that schools are either open or closed. Students will be responsible for class assignments missed if they are absent when the schools are open. This kind of information should be given factually and without threat.

(18) What is the role of the administrative-supervisory staff?

Each member of the administrative-supervisory staff will report to work and will be instructed as to assignment.

(19) Should principals attempt to keep documented accounts of disruptive incidents?

Yes. The principal should assist security and police by noting description of individuals, license numbers and any other details that might be helpful. Cameras should be used to record illegal acts of pickets or other incidents related to work-stoppage attempts.

LARGE GROUP ACTIVITIES FOR USE WITH REDUCED STAFF

A. Organized games and activities in all-purpose rooms, gymnasiums, or on playgrounds.

B. Talent shows, spelling bees, quiz shows.

C. Use of teachers' aides, volunteers, parents, etc. with students, both older and younger. (Not to be used for teaching assignments.)

1. Secondary science students and volunteers work with elementary students on plant and animal life in nearby lakes, ponds and streams. Follow-up with preparing an aquarium, research care for animal and plant life.
2. Secondary students assigned to elementary pupils for nature study in nearby wooded areas.
3. Secondary art students work with elementary pupils in crafts, creative art, stitchery, etc. Plan and make a mural, puppet stage, puppets.
4. Secondary drama students work with elementary pupils in creative dramatics and puppetry. Perform for pupils.

5. Secondary P.E. students plan with elementary pupils, track and field events, baseball and other outdoor and indoor games.
6. Industrial art students work with younger students in planning and building simple toys.
7. Secondary students plan and prepare with younger students vegetable gardens on school grounds or nearby area.
8. Home Relations students —
   Storytelling
   Simple sewing
   Scrap books
   Food preparation
9. Language arts students work with younger students writing poetry and short stories.

D. Language Arts — Drama

Divide the group into three smaller-sized groups distributing the older students among the groups. Have each group plan improvised drama activities to present to the other groups.

The drama activity could include an idea or adaptation from a book or from ideas and experiences of the children.

Give each group about twenty minutes to decide on a presentation and another half-hour or so to plan their presentation.

E. Career exploration.
F. School grounds cleanup. (Ecology)
G. Film showings. Films can be grouped and rotated among buildings.
H. Library open for reading, viewing, listening, storytelling, games, end of year reports, projects, etc.
I. Plan, prepare and record video tape programs.
J. Cable TV. School check with Bob Irvine for special programs.
K. Use educational TV programs.
L. Science and math activities.
   1. Outside activities.
      a. Insect survey — This activity would be a collection and identification activity. It could be carried out with one leader and several helpers.
      b. Students might be asked to plant things around school and at the same time clean and repair flower beds.
      c. Plant a vegetable patch. Plants would then be dug and transplanted at home at the end of the school year.
   2. Build containers which will keep eggs from breaking when dropped.
   3. Bridge building contest, from balsa wood or soda straws and clay.
   4. Have 6th graders teach 4th and 5th graders.
   5. Math Problem-solving Activity Cards (Allison Wesley)
      Excellent for various abilities of students and can be used with various-sized groups.
   6. Environmental Science Activity Cards.
M. Social Studies Activities
   1. Use games and simulations, every secondary school has several.
   2. Bring in special speaker from community, select with care and approval of Central Office.
   3. Create illustrative or interpretive art work with social studies background.

4. Use Economics Geo Games at elementary level — See coordinator of social studies for materials.

N. Suggested General Activities (Primarily for Elementary)
   1. Read stories — books from library.
   2. Show films and/or filmstrips in classroom and/or all-purpose room.
   3. Draw picture on half-ruled paper. Write story about it.
   4. Make a book of action words with illustrative picture for each.
   5. Make book of playthings as above.
   6. Sing familiar songs.
   7. Watch appropriate TV programs.
   8. Children read to each other.
   9. Discuss and read from health texts.
   10. Play games — jump rope, basket shoot, relays, baseball; in gym and out-of-doors.
   11. Illustrate with pictures story problems.
   12. Dramatize stories which have been read to them.
   13. Make lists of fruits, vegetables — perhaps a book with appropriate pictures.
   14. Draw original picture that tells a story. Show picture and tell story of it to class.
   15. Spelling — (I'm thinking of a word that starts with — make sound or say letter - H means ....) Write it on paper. Teacher then writes it on chalkboard. Children check own — finish or rewrite.
   16. Make maps of — classroom, school grounds (label everything). Some capable upper grade students might try to draw to scale. Use own steps to measure. Also maps of United States, world.
   17. Write a news story about your community — number of people, kind of streets, water source, lights, houses (type, construction, material), things for fun, businesses, services, public buildings, type of area (rural, city, suburban), climate.
   18. If I could have three wishes — draw pictures and see if class can guess. Tabulate wishes on chalkboard for boys - girls.
   19. Ciphering match.

GUIDELINES FOR SCHOOL ORGANIZATIONAL PLAN

Assignment of Responsibilities

Perhaps the heart of the administrative strike plan is the establishment of specific responsibilities for each member of the administrative team during the strike. It is paramount that all members of the team and nonstriking teachers know clearly who is responsible for the execution of certain specific and necessary responsibilities and functions. Such an assignment sheet should be in effect on the first and any subsequent days of the strike. Because of the difference in operational complexity and the limited administrative staffing in most elementary schools, the secondary school outline of responsibilities will usually be more comprehensive and detailed.

ELEMENTARY SCHOOLS

Prior to the Opening of School

1. Administrators arrive early.

2. Assign custodian to be in charge of building security. Keep all entrances locked until teachers arrive.
3. Have secretary report early to answer phones.
4. Call paid aides, such as noon supervisors, teacher aides, library aides, etc.
5. You may assume personnel who are not on duty at the regular hour are not reporting for work. Request substitutes as per district instructions.
6. Have secretary call PTSA president and other key people from your list of potential workers as needed.
7. Meet with staff members present. Suggested agenda:
    a. Deployment of staff
    b. Daily schedule of classes
    c. Discuss and plan instructional procedures. Instruction should have top priority. Free play activities should be discouraged.
    d. Distribute substitute folders containing map of school, class lists, lesson plans, class and bell schedules, location of audio visual materials and keys as may be required.
    e. Plan what films and other teaching aides are needed from the district.
    f. The principal should have plans for daily operation to cover a variety of situations to help in staff planning of the instructional day.
8. Contact administration office for instructions if the ratio of certificated persons is less than 1 to 60 people.
9. Inspect classrooms to determine missing items.
10. Have home phone answered if possible.
11. Plan for room entry in case of jammed locks.
12. Cancel student school patrol.

For the Opening of School

1. Develop procedures for directing arriving students to designated assembly or work areas. Do not combine classes if adequate personnel is available.
2. Reassign students to work-and-study areas if they first report to large assembly areas.
3. Plans should provide for adequate supervision of all students. If adequate supervision is not possible, proceed as per district instructions.
4. Principal should remain free of teaching responsibilities. During the first hour of the school session, he or she should evaluate the situation, receive reports indicating number of students, teacher reports, etc.

Lunch Procedures

1. Develop procedures if lunch will be prepared as usual.
2. Develop procedures for no lunch service.
3. The schools in each area should list commercial resources and determine the feasibility of food service.
4. Arrangements for free or reduced lunches.

End of Class Day

1. Inform students of next day's school hours and schedule if possible.
2. Inform students that there will be normal bus transportation unless advised otherwise.

For Building Staff After Student Dismissal

1. A daily staff meeting should be held. A typical agenda should include:
   a. Evaluation of day's activities.
   b. Plans for the following day.
   c. Tomorrow's teachers' day and hours of school.
   d. Role of parents assisting at school.
   e. Number of substitutes needed.
   f. Operation of the lunchroom.
   g. Announcements to be made to students the following day.
2. Unless otherwise notified, all evening meetings and activities will be conducted as scheduled.
3. List for securing building.
4. Keep building well lighted.

SECONDARY SCHOOLS

Before Students Arrive

1. Administrators in the building early — suggest 6:00 a.m.
2. When staff availability has been determined, call the administration office, tell number of staff expected and assess potential areas of instruction for the day.
3. Your local PTSA may have personnel available as aides, supervisors, etc. for the day. Call president or other known workers.
4. Working staff should be asked to arrive as early as possible for instructions.
5. Phone the administration office for additional certificated staff needs for operation. (You may not be certain until students arrive. You must have a minimum ratio of 60 students to 1 certificated person.)
6. Determine what equipment will be necessary (films, projectors, etc. Be alert to protecting equipment beforehand so parts will not be removed).
7. Plan for someone to answer your home phone (plan for using a neighbor's should yours be jammed).
8. Involve your custodial, secretarial and cooking staffs in planning.
9. Determine with your head custodian how many custodians must be called in to assist in supervision of areas.

Student Arrival

1. Place instruction signs at proper places.
2. Determine which classes will report to large assembly areas if not enough staff is expected.
3. One administrator in charge of each class. Principal must remain unattached; consequently, the third person may be a teacher or a central administrative staff member.
4. Instruct students in procedures for the day.
   a. Roll will be taken.
   b. Lunch will be served. Get count. Send to office.
   c. Every effort will be made to continue the instructional program. Be alert for all instructions.
   d. Buses will run as normal.

Instructional Program

1. Staff and student attendance will determine most reasonable procedures.
2. Alternatives.
   a. Students follow regular schedule after class meetings. Teachers

report to their regular classrooms. Shift students as needed. Teachers may need to teach broad subject areas. For example, an algebra teacher might have to combine an algebra class with a geometry class during the same period if sufficient teachers are not available.

  b. Double period (Ex. 1, 3, 5 one day; 2, 4, 6 next) to create less movement. Gives breathing time to plan. If few students show, perhaps teachers could be rotated.
  c. Order supplies and materials as needed.
  d. Assign students to areas if they first report to gym or other large group locations.
  e. Build flexibility into written plans.
  f. Plans should provide for adequate supervision of all students.
  g. A strike is bound to disrupt the normal educational program.
  h. Alternate program should be designed to disrupt the regular program as little as possible.
  i. Deployment of staff available.
  j. Minimum number of staff needed to operate.
  k. Daily schedule for classes or groups.
  l. Fill staffing as per district instruction.
  m. Develop daily plan models for variety of situations.
  n. Materials from outside needed to operate programs.

Lunch Procedures

1. Plans if lunch will be prepared and served as usual.
2. Plans if lunches will not be prepared at the school.
3. Areas where students will report for lunch.
4. A lunch count should be taken to estimate number of lunches.

For Building Staff After Student Dismissal

1. A daily faculty meeting should be held at a specified area. A typical agenda should include the following:
   a. The teachers' day and hours of school the following day.
   b. Develop plans for the following day.
   c. Role of parents, if any, assisting on campus.
   d. Number of substitutes needed.
   e. Operation of lunchroom program.
   f. Necessary announcements to be made to pupils the following day.

General Instructions

1. Keep school lit at night.
2. Check list for securing building at night.
3. Prepare folder for substitutes concerning basic information, school map, class lists, daily schedule, lesson plans.
4. Tighten security on release of students during the day.
5. Suspend operation of student safety patrol.
6. Inform students of bus transportation.
7. Secure all student records, especially phone numbers.
8. Protect equipment to prevent sabotage.
9. Collect roll books from teachers.
10. Pull the blinds of rooms and lock doors if pickets are present outside.
11. Require teachers to leave keys in their desks each evening when a strike is imminent.

APPENDIX F

Glossary

Following are definitions of some of the terms frequently used in employee relations. It is by no means an exhaustive list, but it will serve as a guide in the understanding of some of the basic concepts.

Adverse action	A personnel action considered unfavorable to an employee. Includes discharges, suspensions, furloughs without pay, and reductions in rank or compensation taken by agencies against their employees.
Agency shop	A provision in a collective bargaining agreement requiring employees covered by such agreement who refuse to join the union to pay a service fee to the union equal to union dues. This provision is intended to compensate the union which, by law, must give full and equal protection to all members of the bargaining unit it represents, regardless of union membership status. This requirement exists in some local jurisdictions; it is not permitted in the Federal Government.
Arbitration	A dispute settlement procedure whereby parties involved in an impasse mutually agree to submit their differences to a third party for a final and binding decision. This procedure is also utilized in settling grievances which the parties cannot themselves resolve. (See Grievance; Conciliation; Mediation.) The costs are usually equally shared by the parties.
Arbitration, advisory	A dispute settlement procedure whereby a neutral third party renders a decision that is intended to be final, but is subject to formal acceptance by the parties, particularly the government. Designed largely to avoid the "sovereignty problem" of government, it closely resembles fact-finding with recommendations, but is somewhat stronger.
Arbitration, compulsory	Arbitration compelled by order of a judicial body, law, or outside agency or, in rare instances, agreed to by prior agreement of the parties in a labor-management dispute. Compulsory arbitration is not necessarily binding arbitration.
Bargaining agent	The formally designated organization, generally a labor union, which represents employees seeking or having a collective bargaining agreement (contract). Its rights and obligations are defined by various federal, state, and local laws.
Bargaining unit	The group of employees, usually defined by the National Labor Relations Board or similar federal, state, or local agencies after a hearing and election, which a union seeks to represent as bargaining agent on wages, hours, and working conditions.

Bargaining unit election	(See Election.)
Bureau of Labor Statistics (BLS)	A research agency of the U.S. Department of Labor. Statistics are compiled on hours of work, average hourly earnings, employment and unemployment, consumer prices, and many other areas.
Certification	Official recognition by some impartial labor relations board that an employee organization is, and shall remain, the exclusive representative for all of the employees in an appropriate bargaining unit for the purpose of collective bargaining, until it is replaced by another employee organization, is decertified, or dissolves.
Check-off	Arrangement under which an employer deducts from pay of employees the amount of union dues and assessments and turns over the proceeds to the treasurer of the union.
Closed shop	A collective bargaining provision whereby all employees in a bargaining unit must be union members in good standing before being hired, and new employees are hired through the union. The closed shop as such is banned by the Taft-Hartley Act and prohibited in the Federal Government.
Coercion	Economic or other pressure exerted by an employer to prevent the free exercise by employees of their right to self-organization and collective bargaining; intimidation by union or fellow employees to compel affiliation with union.
Collective bargaining	The performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times in light of the time limitations of the budget-making process, and to bargain in good faith in an effort to reach agreement with respect to the wages, hours, and terms and conditions of employment; provided, that prior law, practice or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession. In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which item(s) are mandatory subjects for bargaining and which item(s) are nonmandatory.
Collective bargaining agreement or contract	A formal written agreement over wages, hours, and conditions of employment entered into between an employer or group of employers and one or more organizations or unions representing employees of the employers.
Collective negotiations	A term used in the public sector as a substitute for collective bargaining. It is established de facto or de jure by federal, state, and local legislation, administrative order, or practice. It differs from collective bargaining by not permitting the right to strike.
Concerted activities	Activities undertaken jointly by employees for the purpose of union organization, collective bargaining, or other mutual aid or protection.
Conciliation	Efforts by third party, usually selected by a labor board or commission, toward the accommodation of opposing viewpoints in a labor

	dispute so as to effect a voluntary settlement. (See Arbitration; Mediation.)
Cost-of-living adjustment	Periodic pay increase based on changes in the Consumer Price Index, sometimes with a stated top limit.
Cost-of-living index	Popular term for the Consumer Price Index issued monthly by the Bureau of Labor Statistics, U.S. Department of Labor.
CPI	Consumer Price Index.
Decertification	Withdrawal of bargaining agency from union upon vote by employees in unit that they no longer wish to be represented by union.
Discrimination	Short form for "discrimination in regard to hire or tenure of employment as a means of encouraging or discouraging membership in a labor organization"; refusal to hire, promote, or admit to union membership because of race, creed, color, sex, or national origin.
Election	Process for determining the bargaining agent for a group of employees. (See Bargaining unit; Unit.)
Employee election	Balloting by employees for the purpose of choosing a bargaining agent or unseating one previously recognized.
Employee organization	Any lawful association, labor organization, federation, council, brotherhood, or other organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of employees.
Employee relations	The manner of dealing with fellow human beings. Although this term may cover the entire field of personnel management, its use is generally restricted to the contacts which take place between the supervisor and individual employees.
Employer interference	An unfair labor practice, it includes barring distribution of union literature of solicitation during nonworking time; making speeches to employees on company time and property before a representation election unless the union gets equal chance to reply; questioning of employees about union activity; closing or moving the plant, or threatening to do so; circulation of an anti-union petition and requiring employees to sign; unilateral increases in wages; removal of privileges; spying; encouraging or discouraging union membership; firing for union activity.
Escalator clause	Clause in collective bargaining contract requiring wage or salary adjustment at stated intervals in a ratio to changes in the cost of living.
Exclusive representative	The employee organization that, as a result of certification by the Board, has the right to be the sole collective bargaining agent of all employees in an appropriate bargaining unit without discrimination and without regard to employee organization membership.
Fact-finding	Identification of the major issues in a particular impasse, review of the positions of the parties and resolution of factual differences by one or more impartial fact-finders, and the making of recommendations for settlement of the impasse.
Fact-finding boards	Agencies appointed to determine facts and make recommendations in major disputes.

Fair employment practice	Term applied in some statutes to conduct which does not contravene prohibitions against discrimination in employment because of race, color, religion, sex, or national origin.
Federal Mediation and Conciliation Service	An independent government agency created under the Labor Management Relations Act of 1947, offering machinery for settlement of labor disputes that threaten to involve a substantial work stoppage.
Fringe benefits	Term used to encompass items such as vacations, holidays, insurance, medical benefits, pensions, and other similar benefits that are given to an employee under his employment or union contract in addition to direct wages.
Good-faith bargaining	The type of bargaining an employer and a majority union must engage in to meet their bargaining obligation under the Taft-Hartley Act. The parties are required to meet at reasonable times and to confer in good faith with respect to wages, hours, and other terms and conditions of employment. But neither party is required to agree to a proposal or to make a concession.
Grievance	An employee complaint; an allegation by an employee, union, or employer that a collective bargaining contract has been violated.
Grievance committee	Committee designated by a union to meet periodically with the management to discuss grievances that have accumulated.
Impasse	Failure of a public employer and an exclusive representative to achieve agreement in the course of negotiations.
Informational picketing	In the public sector, picketing that is not directly related to a labor-management dispute with the agency being picketed, but aimed at support for legislation, civil rights, etc. Also, as used in the public sector, a substitute for striking where employees inform the public about disputes with employers and seek to obtain public support to resolve the dispute in their favor; as strikes increase in number in the public sector, picketing becomes more a strike weapon and less a substitute for strikes. (See Picketing.)
Initiation fees	Fees required by unions as a condition to becoming members. If such fees are excessive or discriminatory, under a union shop an employer may not be held to the obligation of discharging employees who do not join the union. The initiation fee is considered as partial payment for past benefits and improvements obtained by union activity and collective bargaining.
Injunction	Mandatory order by a court to perform or cease a specified activity usually on the ground that otherwise the complaining party will suffer irreparable injury from unlawful actions of the other party; a restraining order, issued for a temporary period without a preliminary hearing on the premise that otherwise irreparable damages will ensue.
Interference	Short-cut expression for "interference with the right of employees to self-organization and to bargain collectively."
Intimidation	Actual or implied threats to induce employees to refrain from joining or to join a labor organization; threats used in other aspects of labor controversies, such as in picketing.
Judicial review	Proceedings before courts for enforcement or setting aside of orders

	of labor relations boards. Review is limited to conclusions of law, excluding findings of fact unless these are unsupported by evidence.
Jurisdiction	Right claimed by union to organize and bargain collectively for a class of employees without competition from any other union; province within which any agency or court is authorized to act.
Labor-management relations	A general term that refers to the formal and informal dealings and agreements between employees or employee organizations and managers.
Leave of absence	Under contract conditions, time off without loss of seniority, and with the right to reinstatement, which permits an employee to engage in union business on a full or part-time basis without being paid by the employer.
Leave without pay	A temporary nonpay status and absence from duty, granted upon the employee's request. The permissive nature of "leave without pay" distinguishes it from "absence without leave," which is a nonpay status resulting from an agency determination that it will not grant any type of leave (including leave without pay) for a period of absence for which the employee did not obtain advance authorization or for which his request for leave on the basis of alleged sickness was denied.
Lockout	Closing down of a business as a form of economic pressure upon employees to enforce acceptance of employer's terms.
Maintenance of membership	Union-security provision in a collective bargaining agreement under which employees who are members of a union on a specified date, or thereafter become members, are required to remain members in good standing during the term of the contract as a condition of employment.
Management	The group directing and controlling employees, including supervisors with effective power to hire and fire.
Management prerogatives	From management's viewpoint, "the right to manage"; the right of management to make certain decisions and take certain actions without notification to, consultation with, or negotiating with the union. Such "prerogatives," when spelled out in the contract, are often a source of controversy.
Management-rights clause	Collective bargaining contract clause that expressly reserves to management certain rights and specifies that the exercise of those rights shall not be subject to the grievance procedure or arbitration; implementation of management prerogatives.
Mediation	Third-party nonbinding, usually noncompulsory, intervention and assistance by a public mediation agency to facilitate a reconcilation of an impasse between employers and employees, or otherwise to initiate, continue, resume, or bring about collective bargaining negotiations between these parties.
Negotiable	Matters of principle, policy, and practice relating to wages, hours, and other conditions and terms of employment which the parties agree they can discuss and about which they can bargain. (See Non-negotiable issue or item; Scope of bargaining.)
Negotiating committee	Committee of a union or an employer selected to negotiate a collective bargaining agreement.

Nonnegotiable issue or item	A principle, policy, or practice which either party contends cannot be discussed or bargained in the course of collective bargaining negotiations. (See Negotiable; Scope of bargaining.)
No-strike clause	Contract clause barring strike during life of agreement.
Observer	In collective bargaining, an employee who attends, without voice, a meeting of management and union negotiators.
Open-end agreement	A union contract with no expiration date, with a provision that either party can give notice of a desire to terminate.
Open shop	An unorganized establishment or one where union membership is not a condition of employment.
Organizer	A union employee whose primary task is to recruit nonunion workers.
Package	Total gains, including fringes, as a result of collective bargaining.
Personnel management	The management of human resources for mission accomplishment and individual job satisfaction. It is the line responsibility of the operating supervisor and the staff responsibility of the personnel specialist. Personnel specialists help supervisors manage personnel.
Picket	An individual marching at the entrance of a place of work that is strikebound, usually carrying signs indicating the cause for the refusal to work.
Picketing	Advertising, usually by members of a union carrying signs, the existence of a labor dispute and the union's version of its merits.
Position	A specific office or employment consisting of all the current duties and responsibilities assigned or delegated by competent authority and requiring the full-time or part-time employment of one person.
Position management	The total consideration that is involved in the utilization of people to accomplish agency tasks. This concept includes evaluation of the need for positions, required skills, and knowledges; titling and pay; and the organization, grouping, and assignment of duties and responsibilities among all positions.
Preferential rehiring	A contract provision for the re-employment of workers on the basis of seniority, after layoffs.
Probationary period	Trial period which is regarded as a final and highly significant step in the examining process. It provides the final and indispensable test, that of actual performance on the job, which no preliminary testing methods can approach in validity. It is at this stage that the probationary employee may be released without undue formality or right to appeal.
Professional negotiations	Term used originally by National Education Association to decribe alternative to collective bargaining, and to prevent split in profession's ranks between teachers and school administrators. The distinction between "professional negotiations" and "collective bargaining" has faded over the years.
Professional sanctions	Technique developed by National Education Association as alternative to strike. Sanctions may include any one or combination of the following: public declaration of unsatisfactory working conditions; recommendation that members of the profession refuse to accept

	employment in the area; censure, suspension, or expulsion of members who take jobs in the area; campaign to mobilize public opinion and political action to bring about change.
Public employer	The President of the United States in the case of the Federal Government, the governor in the case of a state, the mayor in the case of a city, the county executive in the case of counties, the board of education in the case of a department of education, the board of regents in the case of a university, and any individual who represents one of these employers or acts in their interest in dealing with public employees.
Reassignment	The change of an employee, while serving continuously for the same employer, from one position to another without promotion or demotion.
Recognition	An agreement by an employer to accept and treat with an employee organization (union) as the collective bargaining agent for designated employees. (See Certification.)
Reopener	A provision calling for reopening a current contract at a specified time for negotiations on stated subjects, such as a wage increase, pension, health and welfare benefits, etc.
"Right-to-work" laws	State legislation that outlaws the union shop.
Scope of bargaining	The universe of issues included in collective bargaining negotiations. (See Negotiable; Nonnegotiable issue or item.)
Sick leave	Contractually provided conditions under which employees are paid during illness.
Sit-down strike	A work stoppage in which employees report for work but remain idle at their jobs. This tactic was most effectively employed during the organizing surge of 1937-1938 but was soon dropped. It is now explicitly forbidden by law.
Slowdown	Lessening of work effort by concerted agreement among employees to force management concessions. This is sometimes used as an alternative to a strike. (See Strike strategies, special.)
Strike	An employee's refusal, in concerted action with others, to report for duty, or his willful absence from his position, or his stoppage of work, or his abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of employment.
Strike authorization	A strike vote that invests a designated group—union officers, executive board, negotiating committee, and so forth — with the right to call a strike on a given issue without further consultation with the membership.
Strike benefits	Payments by a union to members on strike; a flat sum or graduated according to family needs.
Strike strategies, special	This refers to work stoppages or slowdowns by workers which are intended as substitutes for a formal strike, which would be illegal. Special strike strategies include: blue flu, red rash, continuous union meeting, professional days, mass resignation, informational picketing, safety checks, work slowdown.

Subcontracting	Work farmed out to employees not covered under a collective bargaining agreement under which the prime work is being performed. If done to evade meeting the requirements of collective bargaining with employee representatives, it is an unfair practice under the Taft-Hartley Act.
Unfair labor practices	An employer or union practice forbidden by the National Labor Relations Board, the Federal Code of Fair Labor Practices, or state and local laws, subject to court appeal. This usually involves management efforts to avoid collective bargaining.
Union security	Negotiated contract clauses requiring the establishing and continuance of a union shop, maintenance of membership, agency shop, payroll deduction of union dues, or similar provision that guarantees the existence of the union status during the life of a collective bargaining agreement.
Union shop	A contract clause that requires all union members of a bargaining unit to remain members in good standing as a condition of employment, and further requires new employees to become members after a stated period, usually 60 to 90 days after being hired, and to remain in good standing for the duration of the collective bargaining agreement.
Unit	Shortened form of "unit appropriate for collective bargaining." It consists of all employees entitled to select a single agent to represent them in bargaining collectively. (See Bargaining unit; Election.)
Zipper clause	A contract provision precluding further bargaining during the life of the agreement.

APPENDIX G

Bibliography

BOOKS

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS. **Critical Incidents in Negotiations.** Washington, D.C.: AASA, c1971, 96 pp.

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS. **The School Administrator and Negotiation.** Washington, D.C.: AASA, c1968, 84 pp.

ANDREE, ROBERT G. **The Art of Negotiation: Roles, Games, Logic.** Lexington, Massachusetts: D. C. Heath & Co., c1971, 239 pp.

BEGIN, JAMES P. **Collective Bargaining Agreement in New Jersey Educational Institutions.** New Brunswick, New Jersey: Research Section, Institute of Management and Labor Relations, Rutgers University, January 1970, 48 pp.

BUREAU OF LABOR STATISTICS. **Municipal Collective Bargaining Agreements in Large Cities: Bulletin 1759.** Washington, D.C. United States Department of Labor, 1972, 67 pp.

BUREAU OF NATIONAL AFFAIRS, INC. **Collective Bargaining Today: Proceedings of the Collective Bargaining Forum - 1969.** Washington, D.C.: The Bureau of National Affairs, Inc., c1970, 503 pp.

DOHERTY, ROBERT E. and WALTER E. OBERER (editors). **Teachers, School Boards and Collective Bargaining: A Changing of the Guard.** Ithaca, New York: New York State School of Industrial and Labor Relations, Cornell University, c1967, 139 pp.

ELAM, STANLEY M., MYRON LIEBERMAN, and MICHAEL H. MOSKOW. **Readings on Collective Negotiations in Public Education.** Chicago, Illinois: Rand McNally, c1967, 470 pp.

ELEMENTARY SCHOOL PRINCIPALS. **Professional Negotiations and the Principalship.** Washington, D.C.: National Education Association, c1969, 260 pp.

GREENMAN, RUSSELL L. and ERIC J. SCHMERTZ. **Personnel Administration and the Law.** Washington, D.C.: The Bureau of National Affairs, Inc. c1972, 365 pp.

HORVAT, JOHN J. **Professional Negotiation in Education: A Bargaining Game with Supplementary Materials.** Columbus, Ohio: Charles E. Merrill Publishing Co., c1968, 167 pp.

IGOE, JOSEPH A. and DOUGLAS M. FLYNN. **The School Board Negotiator: Guidelines for Effective Teacher Negotiations.** Albany, New York: Thealan Associates, Inc., c1972, 189 pp.

LAW, KENNETH L. **The Manual for Teachers Negotiators.** Windsor, Connecticut: Educators' Press, c1966, 56 pp.

LIEBERMAN, MYRON and MICHAEL H. MOSKOW. **Collective Negotiations for Teachers: An Approach to School Administration.** Chicago, Illinois: Rand McNally & Co., 1966, 745 pp.

METZLER ASSOCIATES. **Atlantic County New Jersey Boards of Education Information Dissemination Program 1969-70.** Newark, New Jersey: Metzler Associates, 1969, unp.

METZLER, JOHN. **A Journal of Collective Negotiations.** Trenton, New Jersey: New Jersey School Boards Association, October 1967, 121 pp.

O'NEIL, ROY J. **Counterproposals for School Boards in Teachers Negotiations.** Aurora, Illinois: Countersearch, c1972, 255 pp.

SCHMIDT, JR. CHARLES, HAYMAN PARKER, and BOB REPAS. **A Guide to Collective Negotiations in Education.** East Lansing, Michigan: Social Science Research Bureau, Michigan State University, 1967, 85 pp.

SIMKIN, WILLIAM E. **Mediation and the Dynamics of Collective Bargaining.** Washington, D.C.: The Bureau of National Affairs, Inc., c1971, 410 pp.

STINNETT, T. M., JACK H. KLEINMANN, and MARTHA L. WARE. **Professional Negotiations in Public Education.** New York: MacMillan Co., 1966, 309 pp.

TRACEY, ESTELLE R. (editor). **Arbitration Cases in Public Employment.** New York, New York: American Arbitration Association, c1969, 366 pp.

WOLLETT, DONALD H. and ROBERT H. CHANIN. **The Law and Practice of Teacher Negotiations.** Washington, D.C.: The Bureau of National Affairs, Inc., c1970, 1567 pp.

REGULAR PUBLICATIONS DEALING WITH NEGOTIATIONS

ARBITRATION IN THE SCHOOLS, issued monthly by the American Arbitration Association, 140 West 51st Street, New York, New York 10020.

THE ARBITRATION JOURNAL, issued quarterly by the American Arbitration Association, Inc., 140 West 51st Street, New York, New York 10020. Subscription rate: $10 annually.

ARBITRATION LAW: A QUARTERLY DIGEST OF COURT DECISIONS, issued by the American Arbitration Association, 140 West 51st Street, New York, New York 10020.

GOVERNMENT EMPLOYEE RELATIONS REPORT, issued weekly by the Bureau of National Affairs, Inc., Washington, D.C. 20037. Subscription rate: $208 annually.

LAWYER'S ARBITRATION LETTER, issued quarterly by the American Arbitration Association, 140 West 51st Street, New York, New York 10020.

MONTHLY LABOR REVIEW, issued monthly by the United States Department of Labor, Bureau of Labor Statistics, and is for sale by the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402. Subscription rate: $9 annually.

NEGOTIATION RESEARCH DIGEST, issued monthly during the school year by the National Education Association, Research, 1201 Sixteenth Street, N.W., Washington, D.C. 20036. Subscription rate: $15 annually for NEA affiliates, and $30 annually for others.

NEGOTIATIONS MANAGEMENT, issued monthly during the school year by Negotiations Management Service, a Division of Educational Service Bureau, Inc., 1835 K Street, N.W., Washington, D.C. 20006. Subscription rate: $55 annually.

PERSONNEL NEWS FOR SCHOOL SYSTEMS, issued monthly by the Personnel Administration Service, a Division of Educational Service Bureau, 1835 K Street, N.W., Washington, D.C. 20006. Subscription rate: $70 annually.

SUMMARY OF LABOR ARBITRATION AWARDS, issued monthly by the American Arbitration Association, 140 West 51st Street, New York, New York 10020.

BULLETINS, PAMPHLETS, REPORTS, AND REPRINTS

AMERICAN ARBITRATION ASSOCIATION. **Voluntary Labor Arbitration Rules of the American Arbitration Association.** New York, New York: January, 1970, 8 pp.

ANGELL, GEORGE W. **Collective Negotiations in Upstate New York Community Colleges 1968-1971.** Albany, New York: New York State Public Employment Relations Board, June, 1971, 122 pp.

CHANIN, ROBERT H. **Negotiations in Public Education: Developing a Legislative Framework.** Denver, Colorado: Education Commission of the States, c1969, 33 pp.

DOHERTY, ROBERT W. and MILTON SCHWEBEL. **The Impact of Collective Negotiations on Policy Making in New Jersey schools.** New Brunswick, New Jersey: Institute of Management and Labor Relations, Rutgers University, June, 1972, 19 pp.

EDUCATIONAL SERVICE BUREAU, INC. **Laws and Proposals Affecting Public School Negotiations, Volume II, State Bargaining Laws Covering School Employees.** Washington, D.C.: ESB, 1970, 144 pp.

EDUCATIONAL SERVICE BUREAU, INC. **Laws and Proposals Affecting Public School Negotiations, Volume I, Guides and Proposals for Legislation.** Washington, D.C.: ESB, 1970, 62 pp.

EPSTEIN, BENJAMIN. **What is Negotiable?** Washington, D.C.: The National Association of Secondary School Principals, c1969, 28 pp.

ERIC CLEARINGHOUSE ON EDUCATIONAL MANAGEMENT. **ERIC Abstracts: A collection of ERIC Documents Resumes on Collective Negotiations and the Administration.** Eugene, Oregon: University of Oregon, Sept. 1972, 18 pp.

GILROY, THOMAS P. **Dispute Settlement in the Public Sector: The State of the Art.** Washington, D.C.: Public Sector Labor Relations Information Exchange, United States Department of Labor, United States Government Printing Office, 1972, 141 pp.

GROSS, ERNEST. **Public School Law and Collective Negotiations: Problems in Interpretation.** New Brunswick, New Jersey: Institute of Management and Labor Relations, University Extension Division, Rutgers University, March 2, 1972, 14 pp.

METZLER ASSOCIATES. **Manual for Administrators Wilmington, Delaware Board of Public Education.** Newark, New Jersey: Metzler Associates, 1970, 51 pp.

METZLER, JOHN H. "The Need for Limitation Upon the Scope of Negotiations in Public Education, I," a reprint from **Journal of Law & Education,** Volume 2, Number 1, January, 1973. Washington, D.C.: 15 pp.

THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS. **Management Crisis: A Solution.** Washington, D.C.: NASSP, c1971, 28 pp.

NATIONAL EDUCATION ASSOCIATION, RESEARCH. **Salary Schedules and Fringe Benefits for Teachers, 1972-73.** Washington, D.C.: National Education Association, c1973, 278 pp.

NATIONAL LABOR RELATIONS BOARD, 915 Second Avenue, Seattle, Washington, 98174.

NELLIGAN, JR. MAURICE J. and others. **IMLR Seminar for PERC Ad Hoc Mediators and Fact Finders: Civil Service Regulations, Education Law, Municipal Law.** New Brunswick, New Jersey: Institute of Management and Labor Relations, University Extension Division, Rutgers University, December 11, 1971, 27 pp.